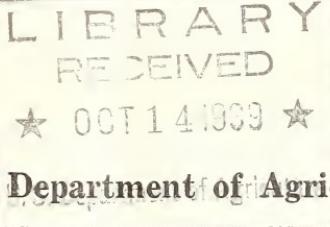


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United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

30401-30550

[Approved by the Acting Secretary of Agriculture, Washington, D. C., July 11, 1939]

30401. Adulteration of frozen perch. U. S. v. 467 Boxes of Frozen Perch. Default decree of condemnation and destruction. (F. & D. No. 44947. Sample No. 31789-D.)

This product was infested with parasitic worms.

On March 6, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 467 boxes of frozen perch at Buffalo, N. Y.; alleging that the article had been shipped in interstate commerce on or about February 4, 1939, by Arnold & Winsor from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 4, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30402. Misbranding of canned cherries. U. S. v. 400 Cases of Canned Cherries (and 2 other seizure actions against the same product). Decrees of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 44442, 44479, 44620. Sample Nos. 36868-D, 58661-D, 59416-D.)

This product was substandard because of the presence of excessive pits and it was not labeled to indicate that it was substandard.

On or about November 30 and December 8, 1938, and January 7, 1939, the United States attorneys for the Western District of Kentucky, Western District of Oklahoma, and the District of Connecticut, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 400 cases of canned cherries at Louisville, Ky., 898 cases of canned cherries at Lawton, Okla., and 402 cases of canned cherries at East Hartford, Conn.; alleging that the article had been shipped in interstate commerce within the period from on or about August 3, 1938, to on or about October 29, 1938, by H. C. Hemingway & Co. from Lockport, N. Y.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Schuyler [or "Cayuga"] Red Sour Pitted Cherries * * * Distributed by H. C. Hemingway & Co. Auburn * * * N. Y."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On December 15, 1938, and January 16 and March 14, 1939, H. C. Hemingway & Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be relabeled in compliance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30-403. Adulteration of frozen haddock. U. S. v. 75 Cases of Frozen Haddock. Consent decree of condemnation and destruction. (F. & D. No. 45095. Sample Nos. 31195-D, 41214-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was in whole or in part decomposed.

On March 25, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 75 cases of frozen haddock at Denver, Colo.; alleging that the article had been shipped on or about February 27, 1939, from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Taste o' Sea Tenderloins Skinless Haddock * * * O'Donnell-Usen Fisheries Corp."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid animal substance.

On April 8, 1939, O'Donnell-Usen Fisheries Corporation, Boston, Mass., having signed an authorization for taking of final decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30-404. Adulteration of frozen lobster tails. U. S. v. 10 Cases of Lobster Tails. Default decree of condemnation and destruction. (F. & D. No. 45058. Sample No. 59857-D.)

This product, which had been imported, at the time of examination was in part decomposed.

On March 20, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases of lobster tails at New York, N. Y.; alleging that the article had been shipped from Capetown, South Africa, on or about March 23, 1938, by Hout Bay Canning Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Selected Frozen Cape Spiny Lobster Tails * * * Produce of Union of South Africa Rising Sun Brand."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30-405. Alleged adulteration and misbranding of preserves and jams. U. S. v. Fresh Grown Preserve Corporation. Tried to the court and jury. Verdict of not guilty. (F. & D. No. 37933. Sample Nos. 21684-B to 21687-B, inclusive, 43016-B to 43019-B, inclusive, 43023-B, 49913-B to 49917-B, inclusive.)

On June 2, 1937, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fresh Grown Preserve Corporation, Brooklyn, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about September 5 to on or about October 25, 1935, from the State of New York into the States of New Jersey and Connecticut, of quantities of preserves and jams which were adulterated and misbranded. The articles were labeled in part: "Natures Own Brand * * * Fresh Grown Preserve Corp."; or "Milrey Brand * * * Milrey Packing Co."

The information alleged that the articles were adulterated in that mixtures deficient in fruit and which contained excess sugar, added water, and added pectin, some of which also contained added acid and others added phosphate, had been substituted for pure blackberry, peach, raspberry, and strawberry preserves, and strawberry, raspberry, cherry, pineapple, and blackberry jams which they purported to be. One lot of raspberry jam was alleged to be adulterated further in that it was artificially colored so as to simulate the appearance of pure raspberry jam and in a manner whereby its inferiority to raspberry jam was concealed.

Misbranding was alleged in that the statements on the labels, "Pure Blackberry [or "Peach," "Raspberry," or "Strawberry"] Preserve," "Pure Strawberry [or "Raspberry," "Cherry," or "Blackberry"] Jam," and "Pineapple Jam," were false and misleading.

On May 9, 1938, a plea of not guilty having been entered on behalf of the defendant, the case came on for trial before the court and a jury. On May 16, 1938, the Government rested, whereupon the defendant moved for dismissal of the information and for a directed verdict, which motions were argued and denied. On May 17, 1938, the defendant having introduced its evidence and arguments of counsel having been concluded, the court dismissed counts 15 and 16 covering the pineapple jam, and submitted the case to the jury with the following instructions:

CAMPBELL, *District Judge*. "Members of the Jury, it becomes my duty now to instruct you upon the law of this case.

"This corporate defendant has been presented hereupon an information which contained 28 counts. I have withdrawn from your consideration the 15th and the 16th counts. There will be for your consideration but 26 counts, the 15th and 16th being dismissed.

"The information is but a charge, it is a method whereby the defendant is placed on trial. Guilt cannot be found merely because this information was filed; but guilt, if found, must be found as a result of proof offered here on the stand.

"The defendant is presumed to be innocent. That presumption is with it from the beginning of the case right down to the time when you, by your verdict, determine whether that presumption has been rebutted or sustained. And it is the duty of the Government to prove the guilt of the defendant beyond a reasonable doubt. That applies to each count, because each count is a separate charge and it applies to each element necessary to sustain that count.

"Reasonable doubt is exactly what its name implies, not some mere whim or preconceived prejudice, but a fair doubt on the evidence, a doubt for which you can give a reason satisfactory to your conscience. In other words, if, after considering all the evidence and the instructions of the court as to any count, any number of counts, all counts, your minds should be in such condition that you are not convinced to a moral certainty of the guilt of the defendant, then you would have a reasonable doubt.

"These 26 counts that are being presented to you fall into two classes, the odd-numbered counts charging adulteration, the even-numbered counts charging misbranding.

"Of course, in order to determine whether there has been adulteration or whether there has been misbranding, you must first determine what are the constituent elements of the article in question, and that is, as to pure fruit preserves or pure fruit jams, there has been no standard adopted by the Department of Agriculture, and, therefore, you must determine first what are pure fruit preserves and what are pure fruit jams—what they are, not to one person, not to a number of persons, but what those words mean to the trade as a whole and have meant for a long period of time.

"The Government contends, and they have offered in evidence to sustain that contention, if it be believed, that a pure fruit preserve or a pure fruit jam is one which contains 45 pounds of fruit and 55 pounds of sugar. They say anything which contains less fruit than that is not a pure fruit preserve or not a pure fruit jam. You have had many witnesses. Is that the meaning of those words? If it is, then we go on to the next step, but that you must be convinced of beyond a reasonable doubt.

"In all of the 26 counts which I have left for your consideration, that means eliminating the 15th and the 16th, it is alleged that the branding was of pure fruit preserves or pure fruit jam of whatever kind it may have been—strawberry, blackberry, or whatever it may have been. Now, is that so? When that brand was placed upon the article did it mean to hold forth that that was composed of 45 pounds of fruit to 55 pounds of sugar, or a quantity according to those ratios or proportions? If that is so, did they produce that character of article which was shipped under that brand? Of course, in order for this court to have jurisdiction, the articles in question about which complaint was made must have been shipped in interstate commerce, that is, in commerce from one State to another. A shipment merely within the State would not have met this proposition. But we have a stipulation here which has been made that these particular articles were shipped and that the samples were taken from goods in shipment. So that question may well be said to be resolved.

"Now we come to the point: You have here this question always before you, as to the content of fruit and sugar. Bear in mind that the Government was not able before the preserve or the jam was made to determine what went into it, because it had been made and it was in transit when the samples were taken. Therefore the Government, in order to analyze and determine what was the fruit content, had to pursue some plan, some method. There is a dispute as to method. You have heard a great deal of talk about words that are unfamiliar. You have heard the Government's experts say that there is a relationship between the potash found in the ash and the fruit content. They say that the way to analyze is to take a portion soluble in water, determine the potash content, and then from that determine the ash content, and that the fruit in the article will be in the proportion which they have stated to you is the proportion that customarily exists between the ash and the fruit. They say that when you take the portion thereof which is soluble in water, you will give an advantage to the manufacturer because there the proportion will be favorable to him. The defense contends that that is wrong. They say that the way to determine is to take the ash content, the whole ash content of the article, and then find the potash that is in it, and then you will find your proportion and by that be able to say what was the fruit content. So the contest is largely between the two methods. You have heard it discussed. I very much hope you have understood it. I am trying to make it plain to you, if I can, that is, exactly what the difference is.

"You understand that when they take this portion which is soluble in water, they reduce it down and burn it and find the ash. Of course, there is always ash in the part that is insoluble. Of course, 'soluble' generally means something you can take into solution with water. There are other solvents, but we are not concerned with them. The solvent here is water. Of course, all of the fruit is not soluble. There is a portion which remains that is insoluble and the defense says that they are deprived of a right which they should have for the determination of this question, the finding of the ash which is in the insoluble portion; whereas on the other hand, the Government says that by taking the ash which is in the portion soluble in water, they give even a little advantage to the manufacturer in that the proportion would be to his advantage.

"Now, that is the question.

"Of course, if pure fruit jam and pure fruit preserves mean fruit preserves and fruit jams made up of 45 parts of fruit to 55 parts of sugar and you have been convinced of that beyond a reasonable doubt, then, of course, the question would be whether or not the defendant has shipped these particular samples, which contain a smaller proportion of fruit, and, in addition, which contain other articles which were not contemplated within the meaning of the term, which were used for the purpose of, perhaps, giving a better appearance or perhaps giving some greater advantage in way of the supposedly fruit content.

"Of course, in order for the defendant to be guilty here, it is not necessary that the adulterated or misbranded article must contain that which is dangerous to health. That is not so. Because, if it be adulterated or be misbranded because there is contained in it less fruit than there should be, or because there is contained in it something which has no place in it, but it is added for some purpose, whether to give it a better color or to raise the standard apparently of that which was not quite up to standard, that would be misbranding if it was branded as pure fruit preserve or pure fruit jam, even though it would not be dangerous or deleterious to health.

"You understand, of course, preserves and jams of this character, that is, pure fruit preserves or pure fruit jams, are 'food' under the provisions of the Federal Food and Drugs Act.

"It is not necessary, in order to find guilt on the part of the defendant, to show that the defendant has placed in the article that which would be known to be deleterious or dangerous.

"Counts 1, 3, 7, 9, 13, 15, and 25 charge that the alleged blackberry preserve, peach preserve, strawberry preserve, strawberry jam, cherry jam, pineapple jam, raspberry jam, therein respectively referred to, are adulterated within the meaning of the Food and Drugs Act, in that mixtures deficient in fruit, containing excess sugar, added pectin, added acid, added water, and added phosphate have been substituted for pure preserves and jams.

"Of course, if you accept the 45-55 ratio as to fruit and sugar, the placing in these of less than that proportion of fruit would be adulteration, and the branding of it as pure fruit preserve or pure fruit jam, if you accept that as

the description of the article, according to the count, that, of course, would be misbranding if it carried the words 'Pure fruit preserves' or 'Pure fruit jam.'

"When you come to the addition of pectin, the testimony on the part of the Government was to the effect, as I remember it—and it is your recollection and not mine that governs—that a small quantity of pectin might be added. If that is so, then you must be convinced beyond a reasonable doubt that more than a small quantity was added.

"So far as the acid, added water, added phosphate, what is the purpose? Of course, water might be added in order to produce a larger quantity, perhaps. Water, of course, would not be bad in and of itself, but it might be added in a quantity which would change the proportions to some extent. There was some talk about acid. Was there a quantity of acid here more than negligible? Was there a quantity of acid here which was an adulteration? And the same thing with phosphate, was there phosphate added? Of course, we have to realize, and I do not know whether it is in evidence, so nobody can complain if I say it, since there are certain acids in fruit and there are certain phosphates that are found in fruit, they are constituent elements of it, and what this means is not that there be found some acid and not that there be found some phosphate, which are elements of the fruit itself, but it really means an addition of phosphate or an addition of acid which of itself makes some change and therefore may be held to be an adulteration. Of course, if they have adulterated these, then, of course, that is a crime.

"Counts 5, 11, 17, 19, and 27 charge adulteration of the alleged raspberry preserve, blackberry preserve, strawberry jam therein respectively referred to in that a mixture deficient in fruit and containing excess of sugar, added pectin, added water, have been substituted for pure fruit preserves. Well, that is exactly the same as I have called to your attention before. If there is less fruit than 45 parts, and there are 55 parts of sugar, why, of course, then the proportion has not been retained. And if there be more than 55 parts of sugar, then, of course, if you have accepted the 45-55 ratio, then, of course, there would be adulteration, and if it was adulterated, there would be misbranding.

"The same thing with reference to pectin. There must have been proof to show you that there was pectin beyond that which the Government says might be added, and that should be beyond a reasonable doubt, otherwise there was no adulteration by the addition of the pectin.

"And water, if water was added so as to change the constituent elements in any way, why, of course, that would be adulteration.

"Count 21 charges adulteration of the alleged strawberry preserve in that a mixture deficient in fruit, containing excess sugar, added water, added pectin, added acid, has been substituted for pure strawberry preserve. What I have said before applies equally to that.

"Count 25 charges the raspberry jam to be further adulterated in that it was an article inferior to pure raspberry jam, in that it was artificially colored so as to simulate the appearance of pure raspberry jam in a manner whereby its inferiority to pure raspberry jam was concealed. If that be true, and you have accepted a 45-55 ratio, that, of course, would be adulteration if the object and the result were to give to an inferior article the appearance of a better grade of article. If that was not accomplished by it, why, then, of course, it would not be adulteration; and if it was, it would.

"Counts 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, and 28 describe the label and each of the labels involved in said counts, and on each of the labels the article involved is described as a pure fruit preserve or jam. I have called your attention to that because I struck out counts 15 and 16 because they did not carry the word 'pure.'

"Were these false and misleading labels? When they used the word 'pure,' what was meant? Again we come back to the point, do you accept the 45-55 ratio of fruit and sugar? Were the articles that were branded as 'pure,' articles which contained those proportions of sugar and fruit? Or did they contain smaller quantities of fruit in proportion? Or were they adulterated, as I have defined that to you? If they were, and they were shipped under these labels and the labels did not correctly describe the article which was contained therein, then, of course, they were misbranded. It is a question of fact. It is for you to determine exactly what the facts are in each of these cases.

"It is charged in count 26 that the alleged pure raspberry jam was misbranded in that it was a mixture deficient in fruit and which contained excess sugar, added water, added pectin, added acid, added phosphate, artificially colored, prepared in imitation of pure raspberry jam in that said article was

offered for sale under the distinctive name of another article, to wit, pure raspberry jam.

"I have already instructed you as to the meaning of pure raspberry jam, if you accept that definition, as including that which was made consisting of 45 parts of fruit to 55 parts of sugar. And where there was addition, if you find there was such addition, of the articles alleged, or where there was a deficiency, then it is for you to say whether or not the brand that was contained on that article really and fairly described it.

"The Government has not introduced evidence to show that there was any intention on the part of the shipper to violate the law, but that is not necessary. This law is one which is described as mala prohibita. There are two kinds of crimes: there are crimes that are mala per se and crimes that are mala prohibita. A crime that is mala per se is one which is wrong in and of itself. A crime which is mala prohibita is an act which is a crime simply because Congress has chosen to say that it was a crime. Of course, what was done here must have been done by the defendant unlawfully or there could be no conviction. That is unlawful which Congress has seen fit to describe as unlawful and as to which punishment is provided.

"Of course, it is for you to say whether or not, if in a large number of cases, as to any one or two counts there should be a slight variation, whether that is a variation which is incidental and found frequently, because as to counts 9, 10, 13, and 14, the Government itself contended that there was not more than 42 pounds of fruit, and as to counts 27 and 28 they contended there was not more than 41 pounds of fruit. Of course, that is a narrow margin. It must receive consideration for you to determine.

"There is a conflict here in the testimony as to the manner in which this analysis should be made. Therefore, when you come to counts where the margin is small, those counts require special consideration because that must be taken into account, for we are all human beings, and there are certain things that do happen over which it is not so easy to exercise control.

"You have heard all the evidence. It is for you to say whom you are going to believe. It is for you to determine where the truth lies. Which is the right method? Was the defendant acting in good faith? Is the expert for the defendant presenting to you that which merits consideration? Because of apparent failure, is it true that the right way to determine the fruit content is by way of the water-soluble portion, or is the right way to determine the fruit content by the path of determining the entire ash? Which is right? Would there be such a change by the defendant's contended method as to bring them clearly under the 45-55 ratio? Because, on their own contention, you have something to guide you. As I remember, it was the first (I may be wrong, and if I am it is unintentional), but, as I remember it, it was under the first sample that the defendant's expert testified that it would be 33 percent fruit under the Government's method; but he said that if his method was applied, 25 percent would be added, which would have been 58 percent. That is the defendant's method. That is applied to that one sample. Applying it mathematically to the other sample, would the defendant on his own showing then have some of them at least which show less than the 45-55? Or, applying that method, would they all be up to the 45? It is for you to say. But equally applying their own method, if any of these should be under the 45-55 ratio, as to that, quite naturally, it would seem to be that the proof would warrant a finding of guilt, regardless of which method you accepted; but if you accept the Government's method of analysis, then, of course, you have their testimony, and, if you believe it, why, it is for you to say whether they are guilty or not.

"Weigh this case with care. Do not be moved by any prejudice, do not be moved by any bias. That is not fair. We are not here, you know, to put our stamp of disapproval upon this particular preserve or this particular jam, or we are not here to worry because possibly we might get a jam, or have received one, which was 1 or 2 percent too little or 5 or 10 percent too little. That is not the question before us at all. This is just a hard cold question of fact. Did this defendant violate the law by adulterating or misbranding, or both? And did they in all the instances, that is, as to every count, or did they as to some counts and not to others? Because your verdict must be rendered on each count, and I called your attention to some counts by numbers. I hope you have remembered it. But if you do not, you can get information at any time by asking the court. I want you to weigh it with care, I want you to consider it on the basis of the evidence, and on the law as I have given it to you.

"That there be no mistake in your minds about this adulteration, I say: If any substance has been substituted wholly or in part for the article, it would be adulterated; if any valuable constituent of the article has been wholly or in part abstracted, it would be adulterated; if it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed, it would be adulterated.

"Take this case, take the exhibits, and give it your consideration.

"There is no witness here before us who may be called an interested witness. The expert called by the defendant is the same as experts called by the Government. Nobody here before us is an interested witness. So that their testimony is not in any sense burdened by that. Most of the witnesses we have had before us have been experts and they are called here to give you the benefit of their knowledge that they have gained in the work they have done in this particular line. Quite naturally, we who are laymen are not informed as to all these things. Some of us may have more or less information as the occasion may have required us to gain it, but they are called here to assist you. They do not take your place at all. You are the sole judges of the facts. You are not bound by any opinion on the facts I might have. If you thought I had one, and you knew what it was, you should disregard it, because you must determine the facts for yourselves.

"You are bound, however, to take my instructions on the law, because that is the law of this case here and at this time, and when you go out, you have no right to say: 'Well, that is not the law. I will make the law for myself.' No, that is not fair, it is not right to anyone, because—remember, and I will make it plain to you—what I say here as the law is taken down by the stenographer and becomes a part of the record and if I make any mistake in my instructions on the law, my error can be corrected; but the law presumes that you will accept my instructions on the law as the law and follow them. Therefore, if you go out and assume to determine the law for yourselves, contrary to my instructions on the law, and thereby you commit an error, nobody on earth could ever correct it because nobody would know it.

"It is a simple proposition. Take it on the evidence and on the law as I have given it to you."

Mr. HALLE. "May I make one suggestion, that as to the publications, that the contents of the publications are as much in evidence as in the testimony?"

THE COURT. "Of course, all the evidence written and spoken is all for your consideration. I said the evidence."

Mr. HALLE. "Your Honor covered quite thoroughly the charge, but I do not get that part about the percentage, the poundage, that if they should find that 45—"

THE COURT. "45 and 55."

Mr. HALLE. "Yes, they must find that beyond a reasonable doubt."

THE COURT. "That is beyond a reasonable doubt, I said. That was the first stage. Until they find that, there is nothing on which to proceed. Having found that, then you proceed to consider. If you do not find that, then, of course, there would be no conviction, there would be no standard."

"Look over the documentary proof so nothing goes to the jury which should not.

"Now, then, the two alternate jurors are excused. We have not required your further labors, fortunately."

(Jury retired at 4:00 p. m.; returned at 4:45 p. m.)

THE COURT. "I am sorry that I cannot give you what you ask, because it was not offered in evidence. The only thing that was offered in evidence was the answer, which you have in the photostat copy, but the letter from the defendant or its representatives to the Government was never offered in evidence. Therefore I cannot give it to you."

JUROR No. 9. "May I ask a question?"

THE COURT. "Yes."

JUROR No. 9. "Couldn't we pay—should we pay any attention to the reading of that letter?"

THE COURT. "What?"

JUROR No. 9. "Should we pay any attention to the reading of that letter?"

THE COURT. "The letter is not in evidence."

JUROR No. 9. "It is not?"

THE COURT. "You cannot pay any attention to what is not in evidence and it has not been presented. You have the letter in evidence which was supposed

to be the reply to it, but the letter itself was not offered in evidence. Whatever the reply shows, that, of course, you can consider. That is in evidence.

"There is an exhibit here which has something that is closed and you are not to consider, of course, anything that it is attempted to conceal. All that was in evidence was this color, the color alone. The other was not in evidence. They have attempted to conceal it, so do not consider anything but that. That is Exhibit No. 16. Consider only that color. The rest of it they have attempted to conceal.

"You understand, the letter you have in evidence purports to be in answer to the letter which you were speaking about. Now, insofar as the letter that you have in evidence refers to the terms of the other letter, why, that far, of course, you can go. You are not to speculate on the contents of the letter beyond what could be reasonably inferred from the letter you have in evidence. That is plain, isn't it?

MR. HALLE. "And also the enclosure, that is part of that exhibit."

THE COURT. "Yes, whatever—consider all that is a part of the letter, but you cannot consider the letter which is not in evidence except insofar as that letter may be referred to in the answer and you can draw the terms of the first letter from the answer. To that extent you can consider it, of course.

"You may retire."

On May 17, 1938, the jury returned a verdict of not guilty.

M. L. WILSON, *Acting Secretary of Agriculture.*

30406. Adulteration of candy. U. S. v. Three Punchboard Deals of Candy. Default decree of condemnation and destruction. (F. & D. No. 43697. Sample No. 37994-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three punchboard deals of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about January 22, 1938, by Jacobs Candy Co. from New Orleans, La.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part "Pecan Heart."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30407. Misbranding of cottonseed screenings. U. S. v. Southland Cotton Oil Co. Plea of guilty. Fine, \$200. (F. & D. No. 42635. Sample No. 4151-D.)

This product was short weight and contained a smaller percentage of protein than that declared on the label.

On January 7, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, Waxahachie, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 18, 1938, from the State of Texas into the State of Kansas of a quantity of cottonseed screenings which were misbranded. The article was labeled in part: "Army Brand Prime Quality 43% Protein Cottonseed Cake and Meal Manufactured For And Guaranteed By Louis Tobian & Company Dallas, Texas."

Misbranding was alleged in that the statements, "100 Lbs. (Net)," "43% Protein," and "Crude Protein, not less than 43.00%," borne on the tag attached to the sacks containing the article, were false and misleading and were borne on the said tag so as to deceive and mislead the purchaser since the sacks contained less than 100 pounds net of the article, and it contained less than 43 percent, namely, not more than 41.75 percent of crude protein.

On February 20, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

30408. Misbranding of cottonseed screenings. **U. S. v. Southland Cotton Oil Co.**
Plea of guilty. **Fine, \$300.** (F. & D. No. 42510. Sample Nos. 666-C,
 4145-D.)

This product contained a smaller percentage of crude protein and a larger percentage of crude fiber than declared on the label.

On September 14, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Southland Cotton Oil Co., a corporation, Waxahachie, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 30 and November 2, 1937, from the State of Texas into the State of Kansas of quantities of cottonseed screenings which were misbranded.

The information alleged that the article was misbranded in that the tag attached to the sacks containing it bore statements that it contained not less than 43 percent of crude protein and not more than 12 percent of crude fiber, and that the said statements were false and misleading and by their appearance on the tag, the article was labeled so as to deceive and mislead the purchaser since it contained less than 43 percent of crude protein and more than 12 percent of crude fiber.

On February 20, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$300.

M. L. WILSON, *Acting Secretary of Agriculture.*

30409. Adulteration of candy. **U. S. v. 14 Cartons and 4½ Cartons of Candy.**
Default decree of condemnation and destruction. (F. & D. Nos. 43703,
 43709. Sample Nos. 37991-D, 37992-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 18½ cartons of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about June 9 and on or about August 19, 1937, by Gilliam Candy Co. from Paducah, Ky.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gilliam's Blue Grass Candies Kitten Tails [or "Cat-Tail"]."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30410. Adulteration of candy. **U. S. v. Nine Cartons of Candy.** **Default decree of condemnation and destruction.** (F. & D. No. 43691. Sample No. 37983-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of nine cartons of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about May 6, 1937, by National Candy Co., Inc., from St. Louis, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "National Bob Cats."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30411. Adulteration of candy. **U. S. v. 23 Cartons of Candy.** **Default decree of condemnation and destruction.** (F. & D. No. 43720. Sample No. 37989-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 23 cartons of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about August 2, 1938, by Schutter Johnson Co. from Chicago, Ill., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Schutter's 1¢ Bit-O'-Honey."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30412. Adulteration of candy. U. S. v. 23 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 43695. Sample No. 37988-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 23 boxes of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about March 12, 1938, by Williamson Candy Co. from Chicago, Ill.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Oh Henry! 1¢."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30413. Adulteration of flour. U. S. v. Four Bags and Eight Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 44224. Sample Nos. 34508-D, 34509-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On or about October 24, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 bags of flour at Hampton, Va.; alleging that the article had been shipped on or about August 3, 1938, by the Wabasha Roller Mill Co. from Wabasha, Minn.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Manufactured by [or "From"] Bay State Milling Co. Winona, Minnesota."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 8, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30414. Adulteration of flour. U. S. v. 33 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 44467. Sample No. 36110-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On December 5, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 bags of flour at Sacramento, Calif.; alleging that the article had been shipped on or about June 29, 1938, by Burley Flour Mills from Burley, Idaho; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Highest Patent Flour Topic."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 21, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30415. Misbranding of canned salmon. U. S. v. 100 Cartons of Canned Salmon. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 39711. Sample No. 26798-C.)

This product was labeled to indicate that it was red salmon, whereas it consisted of pink (coho) salmon.

On June 10, 1937, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel (amended June 19, 1937) praying seizure and condemnation of 100 cartons of canned salmon at Albany, N. Y.; alleging that the article had been shipped in interstate commerce on or about April 21, 1937, by the F. A. Gosse Co. from Seattle, Wash.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Red Breast Brand Salmon * * * Distributed by F. A. Gosse Company Seattle, Wash."

The libel, as amended, alleged that the article was misbranded in that the design of a cut of salmon showing bright red flesh, and the statements, "Red Breast * * * Salmon Fancy Cutlet * * * Natural Red Color and Oil," borne on the label, were false and misleading and tended to deceive and mislead the purchaser since they created the impression that the article was red salmon; whereas it was not red salmon but was coho, and this impression was not corrected by the word "coho" borne on the label. It was alleged to be misbranded further in that it was sold under the distinctive name of another article, namely, red salmon.

On March 18, 1939, the claimant, F. A. Gosse Co., having withdrawn its exceptions theretofore filed to the libel, and having admitted the material allegations of the said libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30416. Adulteration of flour. U. S. v. 498 Bags of Flour. Product ordered released under bond. (F. & D. No. 44131. Sample No. 49789-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was in whole or in part insect-infested.

On October 21, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 498 bags of flour at Jackson, Miss.; alleging that the article had been shipped on or about September 13, 1938, by the Oklahoma City Mill & Elevator Co. from Oklahoma City, Okla.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Choctaw Chief Strong Bakers Patent."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 26, 1939, the Merchants Co., Jackson, Miss., having appeared as claimant, judgment was entered ordering that the product be released under bond conditioned that it should not be disposed of in violation of the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30417. Adulteration of Brazil nuts. U. S. v. 4 Bags and 14 Bags of Brazil Nuts. Default decrees of condemnation and destruction. (F. & D. Nos. 44486, 44487. Sample No. 34539-D.)

This product, which had been shipped in interstate commerce and remained unsold in the original packages at the time of examination, was in whole or in part moldy and decomposed.

On December 8, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 14 bags of Brazil nuts at Norfolk, Va.; alleging that the article had been shipped on or about November 2, 1938, by Wm. A. Higgins & Co., Inc., from New York, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sun-Glo Large Extra Quality Graded Brazils."

Adulteration was alleged in that the article consisted in whole or in part of a decomposed vegetable substance.

On February 8, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30418. Adulteration of walnut meats. U. S. v. 3½ Cases of Walnut Meats. Default decree of condemnation and destruction. (F. & D. No. 44389. Sample No. 20543-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was in whole or in part moldy, worm-infested, and decomposed.

On November 23, 1938, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3½ cases of walnut meats at Tucson, Ariz.; alleging that the article had been shipped on or about October 25, 1938, by Tom Morris from Los Angeles, Calif.; and charging adulteration in violation of the Food and Drugs Act.

Adulteration was alleged in that the article consisted wholly or in part of a filthy and decomposed vegetable substance.

On February 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30419. Adulteration of butter. U. S. v. Howard M. Orsburn (A. T. Crouch Creamery Co.). Plea of guilty. Fine, \$10. (F. & D. No. 42661. Sample Nos. 21806-D, 32478-D.)

This product contained less than 80 percent of milk fat.

On February 21, 1939, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Howard M. Orsburn, trading as A. T. Crouch Creamery Co. at Bloomer (P. O., Charleston), Ark., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about August 16 and 22, 1938, from the State of Arkansas into the State of Illinois of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

On March 8, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$10.

M. L. WILSON, *Acting Secretary of Agriculture.*

30420. Adulteration of strawberry jam. U. S. v. The L. Demartini Co. Plea of guilty. Fine, \$100. (F. & D. No. 42648. Sample Nos. 18159-D, 18169-D, 40037-D.)

Examination of this product showed that it had been made in part from moldy berries.

On February 8, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the L. Demartini Co., a corporation, San Francisco, Calif., alleging that on or about April 22 and June 17, 1938, the said defendant delivered for shipment from San Francisco, Calif., to Seattle, Wash., quantities of strawberry jam which was adulterated. The article was labeled in part: "Madrona Brand Pure Strawberry Jam * * * Distributors Schwabacher Bros. & Co., Inc. Seattle, Washington."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On February 20, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30421. Adulteration of dried apricots. U. S. v. Richard Fair (R. Fair). Plea of guilty. Fine, \$50. (F. & D. No. 42623. Sample No. 17972-D.)

This product was in part decomposed and worm-infested.

On December 2, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Richard Fair, trading as R. Fair at Modesto, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about July 2, 1938, from the State of California into the State of New York of a quantity of dried apricots that were adulterated.

Adulteration was alleged in that the article consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 15, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30422. Adulteration of turnip greens. U. S. v. The Thrift Packing Co. Plea of guilty. Fine, \$50. (F. & D. No. 42543. Sample No. 16057-D.)

Samples of this product were found to contain aphids, larvae, and insect fragments.

On July 22, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Thrift Packing Co., a corporation, Dallas, Tex., alleging shipment by said company in violation of the Food and Drugs Act, on or about November 18, 1937, from the State of Texas into the State of Louisiana of a quantity of turnip greens which were adulterated.

Adulteration was alleged in that the article consisted in whole or in part of a filthy vegetable substance.

On February 20, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30423. Adulteration of butter and frozen eggs. U. S. v. Fergus County Creamery. Plea of guilty. Fine, \$300. (F. & D. No. 42622. Sample Nos. 17844-D, 18140-D.)

The butter covered by this case contained less than 80 percent of milk fat, and the frozen whole eggs were in whole or in part decomposed.

On December 27, 1938, the United States attorney for the District of Montana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fergus County Creamery, a corporation, Lewistown, Mont., alleging shipment by said company in violation of the Food and Drugs Act, on or about April 29 and June 6, 1938, from the State of Montana into the State of California, of quantities of butter and frozen eggs which were adulterated. The butter was labeled in part: "Judith Gold" or "Crystal Lake."

The butter was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

The frozen eggs were alleged to be adulterated in that they consisted in whole or in part of a decomposed and putrid animal substance.

On January 30, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$300.

M. L. WILSON, *Acting Secretary of Agriculture.*

30424. Adulteration of dates. U. S. v. 28 Cases of Dates. Default decree of condemnation and destruction. (F. & D. No. 44903. Sample No. 64012-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On February 25, 1939, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cases of dates at Boise, Idaho; alleging that on or about November 25, 1938, Pease, McCormick & Dance, of San Francisco, Calif., shipped the article by the Portland Auto Delivery from Portland, Oreg.; and charging that it was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 31, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30425. Adulteration and misbranding of olive oil. U. S. v. Antonio Accardi (A. Accardi Co.). Plea of guilty. Fine, \$5. (F. & D. No. 37957. Sample Nos. 43873-D, 43874-B, 43875-B.)

This product was represented to consist wholly of olive oil of Italian origin, whereas it consisted in part of tea-seed oil.

On August 17, 1936, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Antonio Accardi, trading as A. Accardi Co., Boston, Mass., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about November 8, 1935, from the State of Massachusetts into the State of Maine of quantities of olive oil which was adulterated and misbranded. The article was labeled in part: "Lola Brand * * * A. Accardi Distributor."

It was alleged to be adulterated in that tea-seed oil had been substituted in part for olive oil, which it purported to be, and in that tea-seed oil had been mixed and packed with it so as to reduce or lower its quality or strength.

It was alleged to be misbranded in that it was offered for sale under the distinctive name of another article, namely, olive oil. Misbranding was alleged further in that the following statements, "Pure Olio Vergine D'Oliva La Migliore * * * Extra I, Lucca, Italy, Olio Pure d'Oliva Sublime," and "The Olive Oil contained in this can is pressed from fresh-picked high grown fruit, packed by the grower under the best sanitary condition, and guaranteed to be absolutely pure under any chemical analysis. The producer begs to recommend to the consumer to destroy this can as soon as empty in order to prevent unscrupulous dealers from refilling it with adulterated Oil or Oil of an inferior quality. The producer warns all such dealers that he will proceed against them to the full extent of the law. * * * L'Olio d'Oliva contenute in questa latta e Ottenuto dal miglior frutto appena colto confezionato dal produttore nelle migliori condizione igieniche e garantito puro a qualsiasi analisi chimica: Il produttore raccomanda al consumatore di distruggere questa latta appena vuota affine di evitare che poco scrupolosi rivenditori la riempiano con oli adulteratio con oli di qualita inferiore. Il produttore avverte tali rivenditori che procedera contro di loro a termini di legge." and "Imported from Italy," and the design of the map of Italy, olive branches, and gold medals, borne on the cans containing the articles, were false and misleading and were borne on the said cans so as to deceive and mislead the purchaser since they represented that the article was composed wholly of olive oil imported from Italy; whereas it consisted in part of tea-seed oil not imported from Italy.

On February 9, 1937, a plea of guilty was entered and the court ordered that the defendants' recognizance be accepted in the amount of \$1,000. On April 18, 1939, the court imposed a fine of \$5.

M. L. WILSON, Acting Secretary of Agriculture.

30426. Adulteration and misbranding of raspberry fruit extract. U. S. v. 18 Bottles of Extract of Raspberry (and 2 other seizure actions against the same product.) Default decrees of condemnation and destruction. (F. & D. Nos. 44041, 44042, 44119. Sample Nos. 11007-D, 11137-D, 11139-D.)

This product was represented to be genuine fruit extract of raspberry; whereas it contained beta-ionone, a synthetic chemical flavor not found in raspberry. The containers of one lot bore no statement of the quantity of the contents.

Between September 29 and October 10, 1938, the United States attorneys for the Southern District of Ohio and the Southern District of Indiana, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 42 gallons of raspberry extract at Cincinnati, Ohio, and 56 kegs of raspberry extract at Terre Haute, Ind.; alleging that the article had been shipped in interstate commerce within the period from on or about August 20 to on or about September 24, 1938, from New York, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The libels filed in the Southern District of Ohio alleged that the article had been shipped by Seeley & Co., Inc. The libel filed in the Southern District of Indiana alleged that the article had been shipped by the Great Atlantic & Pacific Tea Co. This latter shipment had been delivered to the transportation company by Seeley & Co., Inc., of New York, and was included in consolidated car shipment on a bill of lading showing the Great Atlantic & Pacific Tea Co. as shipper. The latter lot was labeled in part: "Seeley & Co., Inc. Raspberry."

The article was alleged to be adulterated in that a substance containing beta-ionone, a synthetic chemical flavor, had been substituted wholly or in part for

raspberry extract. It was alleged to be adulterated further in that it had been mixed in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the statement "Raspberry" with respect to one lot, and the statement "Extra Concentrated Genuine Fruit Extract Raspberry" with respect to the other lots were false and misleading and tended to deceive and mislead the purchaser when applied to an article containing beta-ionone, a synthetic chemical flavor. It was alleged to be misbranded further in that it was an imitation of and was offered for sale under the distinctive name of another article. The lot contained in the kegs was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On February 7 and April 3, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30427. Adulteration of lobster tails. U. S. v. 137 Boxes and 658 Boxes of Lobster Tails (and 1 other seizure action against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44969 to 44973, inclusive, 44975. Sample Nos. 8155-D to 8160-D, inclusive, 59841-D.)

This product at the time of examination was found to in whole or in part decomposed.

On March 7 and 8, 1939, the United States attorneys for the District of New Jersey and the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 795 boxes of lobster tails at Jersey City, N. J., and 643 boxes of lobster tails at New York, N. Y.; alleging that the article had been imported from the Union of South Africa within the period from on or about December 14 to on or about December 21, 1937; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part variously: "J. O. L. Brand * * * Rock Lobster"; "Captail Brand * * * Tails Langouste"; "Cape Rock Lobster Packed in Hout Bay"; "Oceana Brand * * * Cape Spiny Lobster Tails"; or "Queues de Langoustes Crues T. Bros. Hout Bay."

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 4 and 10, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30428. Adulteration of candy. U. S. v. Nine Cartons of Candy (and six other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 43588, 43589, 43685 to 43689, inclusive. Sample Nos. 37963-D, 37964-D, 37977-D, 37979-D to 37982-D, inclusive.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On September 15 and October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 111 cartons of candy at Hattiesburg, Miss.; alleging that the article had been shipped within the period from on or about August 18, 1937, to on or about June 2, 1938, by Mars, Inc., from Chicago, Ill.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part variously: "Buck-A-Roo," "Mars 5¢," "Snickers," "Forever Yours," or "Honey Almond."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30429. Adulteration of candy. U. S. v. 27 Cartons of Candy (and 8 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 43748 to 43756, inclusive. Sample Nos. 37995-D, 37996-D, 37998-D, 37999-D, 38000-D, 49741-D to 49744-D, inclusive.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 22, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 186 cartons of candy at Hattiesburg, Miss.; alleging that the article had been shipped in part on or about October 23, 1937, and in part on or about February 8, 1938, by W. F. Schrafft & Sons Corporation from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously in part: "Chocolate Covered Cream Almond Bar [or "Cream Pecan Bar," "Maple Cream Walnut," or "Fudge Square"]"; or "Schrafft's Almonds [or "Mint Operas," "Nougatines," "Peppermints," or "Opera Cream Drops"]".

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30430. Adulteration and misbranding of canned lemon juice. U. S. v. 53 Cases of Lemon Juice. Default decree of condemnation and destruction. (F. & D. No. 45015. Sample No. 20634-D.)

This product had been delivered for shipment in interstate commerce, and at the time of examination it was found to contain enamel lining from the container.

On March 10, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 53 cases of canned lemon juice at Los Angeles, Calif.; alleging that the article had been delivered for shipment by the American Shippers Association on or about January 12, 1939; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Hulbert's Brand California Lemon Juice * * * Hulbert's Fruit Products, Inc., * * * Plant Arcadia, Calif."

It was alleged to be adulterated in that a substance containing enamel lining from the container had been substituted wholly or in part for lemon juice, which it purported to be.

It was alleged to be misbranded in that the statement "Pure Juice" was false and misleading and tended to deceive and mislead the purchaser when applied to citrus juice containing enamel lining from the container.

On April 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30431. Adulteration of frozen fillets. U. S. v. 160 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45041. Sample No. 35000-D.)

This product contained parasitic worms.

On March 17, 1939, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 160 boxes of perch fillets at Charleston, W. Va.; alleging that the article had been shipped in interstate commerce on or about March 4, 1939, by Great Atlantic & Pacific Tea Co. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30432. Adulteration of frozen strawberries. U. S. v. 17 Barrels of Strawberries. Default decree of condemnation and destruction. (F. & D. No. 45002. Sample No. 20389-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to contain excessive mold.

On March 9, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 barrels of straw-

berries at Los Angeles, Calif.; alleging that the article had been shipped on or about November 2, 1937, by Allen Fruit Co. from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On March 30, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30433. Adulteration of rolled oats. U. S. v. 33 Bags of Rolled Oats. Default decree of condemnation and destruction. (F. & D. No. 44874. Sample No. 50596-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be infested with beetles.

On February 20, 1939, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 bags of rolled oats at Weiser, Idaho; alleging that the article had been shipped on or about September 15, 1937, by the Quaker Oats Co. from Salt Lake City, Utah; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Buckeye Rolled Oats."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 31, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30434. Adulteration of frozen fillets. U. S. v. 172 Cartons of Red Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45023. Sample No. 42999-D.)

This product contained parasitic worms.

On March 14, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 172 cartons of red perch fillets at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce on or about February 4, 1939, by Frosted Foods Sales Corporation from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Birds Eye Frosted Foods * * * Packed For Frosted Foods Sales Corporation New York."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 8, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30435. Adulteration of almonds. U. S. v. 20 Bags of Almonds. Consent decree of condemnation. Product released under bond for segregation and destruction of unfit portions. (F. & D. No. 44682. Sample Nos. 36126-D, 59270-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be worm-infested.

On January 17, 1939, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 bags of almonds at Brooklyn, N. Y.; alleging that the article had been shipped on or about December 16, 1938, by the Herman C. Fisher Co. from San Francisco, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fisher's Brand California Broken Almonds."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 27, 1939, Mitchel Beck, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that the portion unfit for human consumption be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30436. Adulteration of candy. U. S. v. 13 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 43721. Sample No. 37993.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 boxes of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about February 12, 1938, from Philadelphia, Pa., by D. Goldenberg, Inc.; and charging adulteration in violation of the Food and Drugs Act. The candy was labeled in part: "Goldenberg's Romeos 1¢."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30437. Adulteration of candy. U. S. v. 30 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. No. 43696. Sample No. 37990-D.)

This product at the time of examination was insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 boxes of candy at Hattiesburg, Miss.; alleging that the article had been shipped in interstate commerce on or about October 9, 1937, by Pangburn Co. from Fort Worth, Tex.; and charging adulteration in violation of the Food and Drugs Act. The candy was labeled in part: "Pangburn's Famous Pecan Krunch."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared and the court having found that the product was not adulterated at the time of shipment but had become insect-infested thereafter and through no fault of the original shipper, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30438. Adulteration of prunes. U. S. v. Rosenberg Bros. & Co. Plea of nolo contendere. Fine, \$200. (F. & D. No. 42525. Sample Nos. 2683-D, 7915-D.)

This product was in large part worm-infested.

On June 28, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Rosenberg Bros. & Co., a corporation, San Francisco, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 19 and February 14, 1938, from the State of California into the State of New York of quantities of dried prunes that were adulterated. The article was labeled in part: "For Manufacturing Purposes Only."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance, namely, worm-infested prunes.

On February 15, 1939, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

30439. Adulteration of fruit compote. U. S. v. Rosenberg Bros. & Co. Plea of nolo contendere. Fine, \$100. (F. & D. No. 42644. Sample No. 36290-D.)

This product consisted of a mixture of fruits, and the pears in the mixture were in part insect-infested and moldy.

On January 4, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Rosenberg Bros. & Co., a corporation, San Francisco, Calif., alleging shipment by said company in violation of the Food and Drugs Act, on or about August 4, 1938, from the State of California into the State of Massachusetts of a quantity of fruit compote that was adulterated. The article was labeled in part: "Iris Brand California Choice Fruit Compote."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On February 15, 1939, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30440. Adulteration of confections. U. S. v. 17 Boxes of Cream Cakes (and 1 other seizure of a similar product). Default decrees of condemnation and destruction. (F. & D. Nos. 43693, 43694. Sample Nos. 37985-D, 37986-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 25 boxes of confections at Hattiesburg, Miss.; alleging that the articles had been shipped on or about May 29 and October 9, 1936, by Thinshell Products, Inc., from Chicago, Ill.; and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Thinshell Waffle Cream Cakes [or "Milko Grahams"]."

The articles were alleged to be adulterated in that they consisted wholly or in part of filthy vegetable substances.

On April 11, 1939, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30441. Adulteration of frozen perch fillets. U. S. v. 790 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45093. Sample No. 44972-D.)

This product was infested with parasitic worms.

On April 15, 1939, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 790 boxes of perch fillets at Atlanta, Ga.; alleging that the article had been shipped in interstate commerce on or about March 14, 1939, from Gloucester, Mass., by Atlantic Coast Fisheries Corporation; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Cape Ann Ocean Perch."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30442. Adulteration of frozen fish. U. S. v. 44 Cases of Haddock Fillets (and 7 other seizure actions against similar products). Decrees of condemnation. One lot ordered released under bond for segregation and destruction of decomposed portions. Remaining lots ordered destroyed. (F. & D. Nos. 44633 to 44637, inclusive, 44670, 44671, 44775, 44916, 44924, 44979, 45028. Sample Nos. 30990-D, 30994-D, 30996-D, 30997-D, 31000-D, 31787-D, 41531-D, 41532-D, 42199-D, 44948-D, 44953-D, 49713-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination certain lots were found to be in whole or in part decomposed; others contained parasitic worms.

Between January 5 and March 15, 1939, the United States attorneys for the Districts of Colorado and Utah, Northern District of Texas, Western District of New York, Eastern District of Pennsylvania, Middle District of North Carolina, and the Northern District of Georgia, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 77 cases, 1,109 boxes, and 859 cartons of frozen fish in various lots at Denver, Colo., Salt Lake City, Utah, Dallas, Tex., Buffalo, N. Y., Philadelphia, Pa., Greensboro, N. C., and Atlanta, Ga.; alleging that the article had been shipped within the period from on or about June 26, 1937, to February 25, 1939, by General Sea Foods Corporation, in part from Boston, Mass., and in part from Kansas City, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part variously: "Seafresh Quick Frozen," "Bespakt," or "40 Fathom Fish."

The article was alleged to be adulterated in that it consisted wholly or in part in certain instances of a decomposed and putrid animal substance, in others of a filthy animal substance, and in others of parasite-infested and decomposed fish.

On February 23, 1939, Mid-Central Fish Co., Kansas City, Mo., having appeared as claimant for the lot seized at Dallas, Tex., and having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the portion of the product found unfit for human consumption be destroyed. On February 25 and 27, March 20 and 27, and April 1, 4, and 8, 1939, no claim having been entered for the remaining lots, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30443. Adulteration of frozen whole eggs. U. S. v. 283 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product released under bond. (F. & D. No. 44812. Sample No. 36789-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On February 8, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 283 cans of frozen whole eggs at Oakland, Calif.; alleging that the article had been shipped on or about January 23, 1939, by the Dodge City Warehouse Co. from Dodge City, Kans.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 21, 1939, Sange Bros., Oakland, Calif., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it should not be disposed of in violation of the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30444. Adulteration of frozen fish. U. S. v. 590 Cases, et al., of Whiting and Perch Fillets. Default decrees of condemnation and destruction. (F. & D. Nos. 44639, 44640, 44641, 44642, 44684. Sample Nos. 27454-D, 27457-D to 27462-D, inclusive, 27465-D, 27466-D, 27476-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination some lots were found to be in part decomposed, some contained parasitic worms, and in some both conditions were found.

On January 6 and 13, 1939, the United States attorney for the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,545 cases of frozen fish at Denver, Colo., consigned by Mid-Central Fish Co.; alleging that the article had been shipped on or about August 25, 1938, from Portland, Maine, and on or about October 17, 1938, from Kansas City, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously: "Stk Whiting," "Sea Perch Fillets," "Bespakt Ocean Perch Fillets," or "Bespakt Choice Fish Cutlets."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal substance.

On January 28 and February 27, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30445. Adulteration of frozen perch fillets. U. S. v. 104 Cartons of Frozen Fillets. Default decree of condemnation and destruction. (F. & D. No. 44925. Sample No. 51202-D.)

This product was infested with parasitic worms.

On February 28, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 104 cartons of frozen fillets at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about February 2, 1939, by Atlantic Quick Freeze Co. from New York, N. Y.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On March 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30446. Adulteration of frozen fillets. U. S. v. 405 Pounds of Frozen Pollack Fillets. Default decree of condemnation and destruction. (F. & D. No. 45011. Sample No. 42385-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On March 11, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 405 pounds of frozen fillets at Allentown, Pa.; alleging that the article had been shipped on or about March 6, 1939, by New England Fillet Co. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Skipper Brand Quality Chilled Fillet."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30447. Misbranding of olive oil. U. S. v. 158 Cans of Olive Oil. Default decree of condemnation. Product ordered delivered to a charitable or relief organization. (F. & D. No. 44268. Sample No. 45404-D.)

This product was short of the declared volume.

On November 8, 1938, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 158 cans of olive oil at Fort Bragg, N. C.; alleging that the article had been shipped in interstate commerce on or about September 1, 1938, by West Tea & Coffee Co., Inc., from New York, N. Y.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "West's Monterey Brand Edible Olive Oil."

It was alleged to be misbranded in that the statement "Net Contents 1 Pint" was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short volume; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On March 21, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable or relief organization for its own use.

M. L. WILSON, *Acting Secretary of Agriculture.*

30448. Adulteration of tomato paste. U. S. v. 999 Cartons and 1,000 Cases of Tomato Paste. Consent decrees of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. Nos. 40729, 40969. Sample Nos. 10825-C, 40074-C.)

Portions of this product were found to contain filth resulting from worm infestation.

On November 12 and 30, 1937, the United States attorney for the Eastern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels (the former amended November 15, 1937) praying seizure and condemnation of 999 cartons and 1,000 cases of tomato paste at Brooklyn, N. Y.; alleging that the article had been shipped in interstate commerce on or about September 29 and October 27, 1937, by Flotill Products, Inc., from Stockton, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Moosalina Brand Pure Tomato Paste * * * Packed * * * For Moosalina Products Corp. Brooklyn, N. Y."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On March 24, 1939, Flotill Products, Inc., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered, and the product was ordered released under bond conditioned that the unfit portions be denatured or destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30449. Misbranding of potatoes. U. S. v. 720 Sacks and 360 Sacks of Potatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 44932, 44938, 44939. Sample Nos. 16820-D, 69601-D, 69602-D.)

This product was below the grade declared on the label because of excessive grade defects.

On March 2, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,080 sacks of potatoes at Chicago, Ill.; alleging that on or about February 16, 22, and 23, 1939, Bacon Bros., Inc., of Chicago, Ill., shipped the article to themselves from Waupaca and Seeley, Wis., and that it was misbranded in violation of the Food and Drugs Act. The article was labeled in part: "Gold Seal Brand."

It was alleged to be misbranded in that the statement "U. S. No. 1" was false and misleading and tended to deceive and mislead the purchaser when applied to potatoes below U. S. No. 1 grade.

On March 8, 1939, the cases having been consolidated and Bacon Bros., Chicago, Ill., claimant, having admitted the allegations of the libels, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30450. Adulteration of almonds. U. S. v. Three Sacks of Unshelled Almonds. Default decree of condemnation and destruction. (F. & D. No. 44364. Sample No. 36088-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be worm-infested.

On November 17, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three sacks of almonds at Norfolk, Va.; alleging that the article had been shipped on or about October 24, 1938, by Rosenberg Bros. & Co. from Oakland, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ensign Brand California Nonpareil Almonds."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 7, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30451. Adulteration of butter. U. S. v. 83 Tubs of Butter (and 7 other seizure actions against the same product). Decrees of condemnation. Product released under bond. (F. & D. Nos. 44665, 44666, 44667, 44754, 44757 to 44760, incl. Sample Nos. 32977-D, 32978-D, 45621-D, 45622-D, 54101-D, 54102-D, 54103-D, 54105-D, 54106-D, 54107-D, 54109-D, 54110-D, 54111-D.)

This product was deficient in milk fat and a portion contained added mineral oil.

Between December 9, 1938, and January 11, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 911 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce within the period from on or about July 26, 1938, to on or about October 3, 1938, by Farmers Union Cooperative Creamery Co. from Superior, Wis.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by act of March 4, 1923. A portion was alleged to be adulterated further in that mineral oil had been substituted in part for butterfat.

On December 30, 1938, and January 20, 1939, L. D. Schreiber & Co., Inc., Chicago, Ill., claimant, having admitted the allegations of the libels, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it should not be disposed of in violation of the Food and Drugs Act. Those portions deficient in milk fat and not otherwise adulterated were reworked to the legal standard and those portions adulterated with mineral oil (70 tubs) were denatured and disposed of as inedible grease.

M. L. WILSON, *Acting Secretary of Agriculture.*

30452. Adulteration of frozen fish. U. S. v. 65 Cases of Perch Fillets and 533 Cases of Pollack Fillets. Consent decree of condemnation and destruction. (F. & D. Nos. 45116, 45119. Sample Nos. 30710-D, 62662-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in whole or in part decomposed.

On March 30 and 31, 1939, the United States attorneys for the District of Colorado and the Southern District of Texas, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 65 cases of perch fillets at Denver, Colo., and 533 boxes of pollack fillets at Houston, Tex., consigned by Atlantic Coast Fisheries Corporation; alleging that the article had been shipped on or about March 1 and 16, 1939, from Boston and Provincetown, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 20 and May 2, 1939, no claim having been entered, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30453. Adulteration of frozen fish. U. S. v. 53 Boxes of Ocean Perch and 71 Boxes of Chilled Flounder Fillets. Portion of product destroyed; remainder disposed of for fertilizer. Default decree of condemnation. (F. & D. Nos. 45069, 45075. Sample Nos. 45145-D, 45152-D, 54538-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination one lot was found to be in part decomposed and the remaining lot was found to be infested with parasitic worms.

On or about March 21 and April 14, 1939, the United States attorneys for the Eastern District of Michigan and the Southern District of Florida, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 53 boxes of ocean perch at Detroit, Mich., and 71 boxes of chilled fillets at Jacksonville, Fla.; alleging that the article had been shipped on or about March 18 and October 14, 1938, by 40 Fathom Fisheries (or 40 Fathom Fish Co.) from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that one lot consisted wholly or in part of a filthy animal substance and the other lot consisted wholly or in part of a decomposed animal substance.

On April 5 and 29, 1939, no claimant having appeared, judgments of condemnation were entered. The lot seized at Detroit was ordered turned over to a Government institution to be used for fertilizing purposes only, and that seized at Jacksonville was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30454. Adulteration of Brazil nuts. U. S. v. 20 Sacks of Brazil Nuts. Default decree of condemnation and destruction. (F. & D. No. 44273. Sample No. 30922-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part moldy and decomposed.

On November 3, 1938, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 sacks of Brazil nuts at Albuquerque, N. Mex.; alleging that the article had been shipped on or about September 28, 1938, by Wm. A. Higgins & Co., Inc., from Los Angeles, Calif.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On April 8, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30455. Adulteration of canned clams. U. S. v. Two Cases of Maine Clams. Default decree of condemnation and destruction. (F. & D. No. 44762. Sample No. 48914-D.)

This product was in whole or in part decomposed.

On March 28, 1939, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of two cases of canned clams at Fall River, Mass.; alleging that the article had been shipped in interstate commerce on or about October 15, 1938, by Black & Gay Canners, Inc., from Thomaston, Maine; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Mount Hope Fancy Maine Clams * * * Economy Wholesale Grocery Co. Distributors Fall River, Mass."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On April 17, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30456. Adulteration of frozen fish. U. S. v. 54 Boxes and 495 Boxes of Red Perch Fillets. Default decrees of condemnation. Portion of product destroyed; remainder disposed of for fertilizer. (F. & D. Nos. 44869, 44892. Sample Nos. 53278-D, 54511-D, 54515-D.)

This product was infested with parasitic worms.

On or about February 17 and April 4, 1939, the United States attorneys for the Eastern District of Missouri and the Eastern District of Michigan, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 54 boxes of perch fillets at St. Louis, Mo., and 495 boxes of perch fillets at Detroit, Mich.; alleging that the article had been shipped in interstate commerce on or about January 31 and February 10, 1939, by Commonwealth Ice & Cold Storage Co. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 5 and 13, 1939, no claimant having appeared, judgments of condemnation were entered. The lot seized at St. Louis was ordered destroyed and that seized at Detroit was ordered delivered to a Government institution to be used for fertilizer.

M. L. WILSON, *Acting Secretary of Agriculture.*

30457. Adulteration of frozen fish. U. S. v. 1,000 Boxes of H & G Whiting. Consent decree of condemnation and destruction. (F. & D. No. 45021. Sample No. 31194-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On March 14, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 boxes of fish at Denver, Colo., consigned by American Fish Co.; alleging that the article had been shipped on or about February 27, 1939, from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "H & G Whiting."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 25, 1939, the American Fish Co., owner, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30458. Adulteration of tomato catsup. U. S. v. 69 Cases of Tomato Catsup (and 6 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44657, 44658, 44659, 44695, 44747, 44796, 44981. Sample Nos. 28189-D, 37780-D, 39811-D, 50544-D, 50549-D, 50580-D, 50911-D, 62520-D.)

Samples of this product were found to contain worm and insect fragments.

Between January 11 and March 8, 1939, the United States attorneys for the Western and Eastern Districts of Washington, the District of Oregon, and the Southern District of Alabama, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 624 cases of tomato catsup in various lots at Seattle, Yakima, and Spokane, Wash., Portland, Oreg., and Mobile, Ala.; alleging that the article had been shipped within the period from on or about October 25, 1938, to on or about January 9, 1939, by Val Vita Food Products, Inc., in part from Fullerton, Calif., and in part from Los Angeles, Calif.; and charging adulteration in violation of the Food and Drugs Act. Certain lots were labeled in part: "Val

Vita Brand [or "Monte Rio Brand"] Tomato Catsup * * * Val Vita Food Products Inc. Fullerton California." The remaining lot was labeled in part: "Nation's Garden Brand Tomato Catsup Packed for Fine Foods Inc. Seattle, Minneapolis."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On February 27, March 13, 23, and 24, and April 15, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30459. Adulteration of frozen pollack fillets. U. S. v. 40 Boxes of Fish Fillets (and 3 other seizure actions against the same product). Decrees of condemnation and destruction. (F. & D. Nos. 45063 to 45066, incl. Sample Nos. 51406-D to 51409-D, inclusive.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in whole or in part decomposed.

On March 22, 1939, the United States attorney for the Middle District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 74 boxes of fillets at Harrisburg, Pa., and 9 boxes of fillets at Lemoyne, Pa.; alleging that the article had been shipped on or about March 13 and 16, 1939, by Union Premier Stores, Inc., from Baltimore, Md.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Fish Fillets Packed By Gorton-Pew Fisheries Co. Ltd., Gloucester, Mass."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 6, 1939, no claimant having appeared and the United States attorney having petitioned that the product be condemned and destroyed since it had not been under proper refrigeration, and had become so rotten and decayed that it constituted a menace to health, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30460. Adulteration of canned crab meat. U. S. v. 52 Cases, 182 Cases, and 96 Cases of Crab Meat. Default decree of condemnation and destruction. (F. & D. Nos. 44799, 44800, 44801. Sample Nos. 43245-D, 43269-D, 43270-D, 43362-D.)

This product was in whole or in part decomposed.

On February 7, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 330 cases of canned crab meat at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce in various shipments on or about May 22 and June 20 and 21, 1938, by Port Orford Sea Food Co. from Port Orford and Marshfield, Oreg.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Dodge [or "Anchor"] Brand Crab Meat."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30461. Adulteration of frozen fillets. U. S. v. 983 Boxes and 34 Boxes of Ocean Perch. Default decrees of condemnation and destruction. (F. & D. Nos. 45132, 45142. Sample Nos. 35112-D, 43144-D.)

This product was infested with parasitic worms.

On April 3 and 5, 1939, the United States attorneys for the Western District of Pennsylvania and the Southern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 983 boxes of ocean perch at Pittsburgh, Pa., and 34 boxes of ocean perch at Charleston, W. Va.; alleging that the article had been shipped in interstate commerce on or about March 18 and 21, 1939, by the Great Atlantic & Pacific Tea Co. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 12 and 29, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30462. Misbranding of canned cherries. U. S. v. 50 Cases and 63 Cases of Canned Cherries. Decrees of condemnation. Product released under bond to be relabeled. (F. & D. Nos. 44613, 44811. Sample Nos. 36535-D, 36557-D.)

This product was substandard because of excessive pits and it was not labeled to indicate that it was substandard.

On or about December 30, 1938, and February 13, 1939, the United States attorney for the District of Kansas, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 50 cases of canned cherries at Emporia, Kans., and 63 cases of canned cherries at Concordia, Kans.; alleging that the article had been shipped in interstate commerce on or about August 13 and 16, 1938, by Producers Canning Co. from Fort Collins, Colo.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Producers Brand Water Pack Colorado Red Pitted Cherries."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 20 and March 24, 1939, Theo. Poehler Mercantile Co., Emporia, Kans., and the Concordia Mercantile Co., Concordia, Kans., having appeared as claimants for the respective lots and having admitted the allegations of the libels, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be relabeled in compliance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30463. Adulteration of poultry. U. S. v. Two Barrels of Chickens and One Box of Fowl. Default decree of condemnation and destruction. (F. & D. Nos. 44899, 44900. Sample Nos. 27002-D, 27003-D.)

Examination of this poultry showed that a portion was diseased.

On February 25 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two barrels and one box of poultry at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about January 21 and 27, 1939, by Tracy Produce Co., Inc., from Tracy, Minn.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was the product of a diseased animal.

On March 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30464. Adulteration of cheese. U. S. v. 60 Cases of Cheese. Default decree of condemnation and destruction. (F. & D. Nos. 44462, 44463, 44464. Sample Nos. 41735-D, 41737-D, 41738-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to contain insect fragments.

On December 2, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 cases of cheese at Philadelphia, Pa.; alleging that the article had been shipped on or about September 10 and October 3, 1938, by J. & H. Van Vleck from Westernville, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Van Vleck's Finest Quality Limburger."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On March 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30465. Adulteration of lobster tails. U. S. v. 28 Boxes of Lobster Tails. Default decree of condemnation. Product ordered turned over to a Government institution for use as fertilizer. (F. & D. No. 45068. Sample No. 54536-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in whole or in part decomposed.

On March 21, 1939, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 boxes of lobster tails at Detroit, Mich.; alleging that the article had been shipped on or about February 16, 1939, by Trans Oceanic Fisheries, Inc., from New York, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Rock Lobster Tails * * * Packed by Luries Canning Factory Capetown Produce of the Union of South Africa."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 5, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered turned over to a Government institution to be used for fertilizing purposes only.

M. L. WILSON, *Acting Secretary of Agriculture.*

30466. Adulteration of frozen fillets. U. S. v. 53 Cartons of Perch Fillets and 334 Boxes of Frozen Fillets. Default decrees of condemnation and destruction. (F. & D. Nos. 44845, 44915. Sample Nos. 62527-D, 62560-D, 62746-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination one lot was found to be infested with parasitic worms and the other lot was in whole or in part decomposed.

On February 17 and March 1, 1939, the United States attorney for the Eastern District of Louisiana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 53 cartons and 334 boxes of frozen fillets at New Orleans, La.; alleging that the article had been shipped on or about April 9 and September 30, 1938, by Beacon Fisheries from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 15 and 17, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30467. Adulteration of perch fillets. U. S. v. 100 Boxes of Perch Fillets. Consent decree of condemnation and destruction. (F. & D. No. 45053. Sample No. 54643-D.)

This product was infested with parasitic worms.

On March 23, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 boxes of perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about March 6, 1939, by Genoa Fisheries, Inc., from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On March 25, 1939, the claimant having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30468. Adulteration of frozen perch fillets. U. S. v. 370 Boxes and 513 Boxes of Perch Fillets. Consent decrees of condemnation and destruction. (F. & D. Nos. 45030, 45055. Sample Nos. 54642-D, 54646-D.)

This product was infested with parasitic worms.

On March 17 and 23, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 883 boxes of perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about March 6 and 11, 1939, by Gloucester Fresh Fish

Co., from Boston, Mass., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Northeast Perch Fillets."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 3, 1939, the consignee having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30469. Adulteration of frozen perch fillets. U. S. v. 200 Cases of Ocean Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 44912. Sample No. 41165-D.)

This product was infested with parasitic worms.

On February 25, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 200 cases of perch fillets at Denver, Colo., consigned by Slade Gorton & Co.; alleging that the article had been shipped in interstate commerce on or about February 8, 1939, from Chicago, Ill.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 17, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30470. Adulteration of candy. U. S. v. 11 Cartons and 23 Boxes of Candy. Default decree of condemnation and destruction. (F. & D. Nos. 43692, 43719. Sample Nos. 37984-D, 37987-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 11 cartons and 23 boxes of candy at Hattiesburg, Miss.; alleging that the article had been shipped by Brock Candy Co. from Chattanooga, Tenn., the former on or about October 1, 1937, and the latter on or about July 22, 1938; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Brock's Bazooka" or "1¢ Toasted Candy Wafers."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30471. Adulteration of Lingon berries. U. S. v. 10 Barrels and 6 Barrels of Lingon Berries. Default decree of condemnation and destruction. (F. & D. Nos. 44778, 44779. Sample Nos. 50914-D, 50921-D, 50923-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be worm-infested.

On February 2, 1939, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 16 barrels of Lingon berries at Seattle, Wash.; alleging that the article had been shipped on or about December 3, 1938, by Westergaard, Berg-Johnson Co. from Brooklyn, N. Y.; and charging adulteration in violation of the Foods and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30472. Adulteration of potato ferment. U. S. v. 11 Bags of Falk National Potato Ferment. Default decree of condemnation and destruction. (F. & D. No. 44989. Sample No. 57229-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On March 10, 1939, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the

district court a libel praying seizure and condemnation of 11 bags of Falk Natural Potato Ferment at Seattle, Wash.; alleging that the article had been shipped on or about January 14, 1939, by Falk Products Co. from Glendale, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Falk Natural Potato Ferment."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30473. Adulteration of frozen fish. U. S. v. 198 Cartons of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45088. Sample No. 43124-D.)

This product was infested with parasitic worms.

On March 24, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 198 cartons of perch fillets at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce on or about March 11, 1939, by Frosted Foods Sales Corporation from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Birds Eye Frosted Food."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30474. Adulteration of frozen fish. U. S. v. 72 Boxes of Red Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45103. Sample No. 43128-D.)

This product was infested with parasitic worms.

On March 28, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 boxes of red perch fillets at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce on or about October 8, 1938, by Busalacchi Bros. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30475. Adulteration of shelled almonds. U. S. v. Three Bags of Shelled Almonds. Default decree of condemnation and destruction. (F. & D. No. 44569. Sample No. 39785-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On December 21, 1938, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three bags of shelled almonds at Seattle, Wash.; alleging that the article had been shipped on or about November 12, 1938, by J. M. Pfeiffer Co. from Oakland, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Golden Bear Brand."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30476. Adulteration of butter. U. S. v. Swift & Co. Plea of guilty. Fine, \$200. (F. & D. No. 42603. Sample Nos. 16788-D, 21783-D, 21786-D.)

This product contained less than 80 percent by weight of milk fat.

On November 10, 1938, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Swift & Co., a corporation, having a place

of business at Muskogee, Okla., alleging shipment by said defendant on or about May 7, 19, and 30, 1938, from the State of Oklahoma into the States of New York and Illinois, of quantities of butter which was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by act of March 4, 1923.

On April 6, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

30477. Adulteration of cake flour. U. S. v. 45 Bags of Cake Flour. Default decree of condemnation and destruction. (F. & D. No. 45106. Sample No. 43929-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to contain rodent excreta.

On March 27, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 bags of cake flour at San Francisco, Calif.; alleging that the article had been shipped on or about February 3, 1939, by Wasco Warehouse & Milling Co. from Portland, Oreg.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Bleached Queen of Cake Flour Manufactured for Curry Flour Co. San Francisco, Calif."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30478. Adulteration of candy. U. S. v. 72 Boxes and 39 Cartons of Candy. Default decree of condemnation and destruction. (F. & D. Nos. 44015, 44016. Sample Nos. 49765-D, 49766-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 72 boxes and 39 cartons of candy at Greenwood, Miss.; alleging that the article had been shipped in part on or about March 15 and in part on or about June 7, 1938, by Curtiss Candy Co. from Chicago, Ill.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Baby Ruth" or "12 Baby Ruth Fruit Drops with 100 Curtiss Butterfinger."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30479. Adulteration and misbranding of frozen fish. U. S. v. 48 Boxes of Fresh Fillets. Default decree of condemnation and destruction. (F. & D. No. 45197. Sample No. 51420-D.)

This product was adulterated because it was infested with parasitic worms. It also was misbranded because it was represented to be fresh fish, whereas it was frozen fish.

On April 13, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 boxes of perch fillets at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about April 8, 1939, by Cape Fish Co. from Boston, Mass.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Wrapper) "Deep Water Brand Fresh Fillets."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

It was alleged to be misbranded in that the statement on the wrapper, "Fresh Fillets," was false and misleading and tended to deceive and mislead the purchaser when applied to frozen fish.

On May 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30480. Adulteration of black walnut meats. U. S. v. One Barrel of Black Walnut Meats. Default decree of condemnation and destruction. (F. & D. No. 45159. Sample No. 51239-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original package at the time of examination, was found to be in part dirty and moldy.

On April 6, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one barrel of black walnut meats at Philadelphia, Pa.; alleging that the article had been shipped on or about March 20, 1939, by Myers Walnut Co. from Carlisle, Ky.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On May 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30481. Adulteration of corn meal. U. S. v. 223 Bags and 172 Bags of Corn Meal. Default decree of condemnation and destruction. (F. & D. Nos. 44017, 44018. Sample Nos. 49758-D, 49759-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested and to contain rodent hairs.

On October 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 395 bags of corn meal at Greenwood, Miss.; alleging that the article had been shipped on or about September 3, 1938, by Hopkinsville Milling Co., Inc., from Hopkinsville, Ky.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Crescent Mills Hopkinsville, Ky. Sunflower Meal."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30482. Adulteration of flour. U. S. v. 225 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 44087. Sample No. 49777-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 225 bags of flour at Clarksdale, Miss.; alleging that the article had been shipped on or about September 21 and October 6, 1937, by Buhler Mill & Elevator Co. from Buhler, Kans.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Big Moon High Patent Flour * * * Reliance Milling Co. Ava, Ill."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30483. Adulteration of flour. U. S. v. 112 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 44069. Sample No. 49778-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 112 bags of flour at Clarksdale, Miss.; alleging that the article had been shipped on or about May 24, 1938, by the Larabee Flour Mills from Clinton, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Aetna's Best Patent Flour * * * Manufactured by The Aetna Mills Wellington, Kansas."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30484. Adulteration of frozen fish. U. S. v. 413 Boxes of Perch (and 3 other seizure actions against a similar product). Default decrees of condemnation and destruction. (F. & D. Nos. 44948, 44956, 45072, 45085. Sample Nos. 31792-D, 42669-D, 43114-D, 43116-D, 43121-D.)

This product was infested with parasitic worms.

Between March 6 and 23, 1939, the United States attorneys for the Western District of New York and the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 21 boxes of frozen redfish fillets and 713 boxes of frozen fish fillets in various lots at Buffalo and Rochester, N. Y., and Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce within the period from on or about October 27, 1938, to on or about March 13, 1939, by F. J. O'Hara & Son, Inc., from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 4 and 17, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30485. Adulteration of sea bass. U. S. v. 8,610 Pounds of Sea Bass. Default decree of condemnation and destruction. (F. & D. Nos. 45120, 45121. Sample Nos. 20658-D, 20659-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in whole or in part decomposed.

On March 29, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 8,610 pounds of sea bass at Los Angeles, Calif.; alleging that the article had been shipped on or about March 18, 1939, by H. Reeves from Nogales, Ariz.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30486. Adulteration and misbranding of molasses. U. S. v. 10 Cases of Molasses. Default decree of condemnation. Product ordered delivered to a charitable institution or destroyed. (F. & D. No. 44428. Sample No. 34523-D.)

This product was labeled to indicate that it was molasses; whereas it was a mixture of molasses, corn sirup, and refiners' sirup.

On December 14, 1938, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases of molasses at Ahoskie, N. C.; alleging that the article had been shipped in interstate commerce on or about October 19, 1938, by Imperial Coffee Co. from Richmond, Va.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Monogram * * * Molasses * * * This is a delicious blend of Imported Molasses, Corn Syrup and Sugar Refiners Syrup."

It was alleged to be adulterated in that a mixture of molasses, corn sirup, and refiners' sirup had been substituted wholly or in part for the article.

It was alleged to be misbranded in that the name "Molasses" was false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of molasses, corn sirup, and refiners' sirup, which misleading impression was not corrected by the inconspicuous statement on the side panel: "This is a delicious blend of Imported Molasses, Corn Syrup and Sugar Refiners Syrup." It was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article.

On March 28, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution or destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30487. Adulteration of frozen fish. U. S. v. 90 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45070. Sample No. 52036-D.)

This product was infested with parasitic worms.

On March 21, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 90 boxes of perch fillets at Rochester, N. Y.; alleging that the article had been shipped in interstate commerce or on or about March 9, 1939, by Fulham & Herbert from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Wrapper) "North East Brand Fancy Fillets."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 17, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30488. Adulteration of almonds. U. S. v. 35 Bags, et al., of California Almonds. Decree of condemnation. Product ordered released under bond for segregation and destruction of unfit portion. (F. & D. No. 44484. Sample Nos. 35967-D, 35970-D, 35976-D, 35977-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part worm-infested.

On December 8, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 160 bags of almonds at Boston, Mass.; alleging that the article had been shipped on or about October 6 and 19, 1938, by California Almond Growers Exchange from Sacramento, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: variously: "Fancy Blue Diamond Brand," or "Golden State Brand."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 14, 1938, George W. Bentley Co., Boston, Mass., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the unfit portion be segregated and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30489. Adulteration and misbranding of smoked salmon. U. S. v. 10 Cases of Sliced Smoked Salmon. Decree of condemnation and destruction. (F. & D. No. 45137. Sample No. 86-D.)

This product contained artificially colored mineral oil.

On April 3, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases of sliced smoked salmon at Denver, Colo., consigned by Los Angeles Smoking & Curing Co.; alleging that the article had been shipped in interstate commerce on or about February 25, 1939, from Los Angeles, Calif.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, "Lasco Brand."

The article was alleged to be adulterated in that an artificially colored mineral oil had been mixed and packed with it so as to reduce and lower its quality and strength and had been substituted wholly or in part for edible

salmon oil. It was alleged to be adulterated further in that it had been mixed and colored in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the statement "Sliced Smoked Salmon" was false and misleading and tended to deceive and mislead the purchaser, since mineral oil is not a recognized ingredient of sliced smoked salmon.

On April 17, 1939, the shipper having signed authorization for the taking of final decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30490. Adulteration of frozen fish. U. S. v. 12 Cases of Halibut. Default decree of condemnation and destruction. (F. & D. No. 45019. Sample Nos. 50193-D, 50358-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be decomposed in whole or in part.

On March 17, 1939, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 cases of halibut at New Orleans, La.; alleging that the article had been shipped on or about August 21, 1938, by Honor Brand Frosted Foods Corporation from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Halibut Honor Brand Fresh Frosted Sea Foods."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 21, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30491. Adulteration and misbranding of vanilla extract. U. S. v. 94 Dozen and 68 Dozen Bottles of Pure Extract Vanilla. Default decree of condemnation and destruction. (F. & D. No. 44720. Sample Nos. 59274-D, 59275-D.)

This product was an imitation vanilla extract containing little or no true vanilla.

On January 24, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 162 dozen bottles of vanilla extract at Irvington, N. J.; alleging that the article had been shipped in interstate commerce within the period from on or about November 4 to December 6, 1938, by Safe Owl Products, Inc., from Brooklyn, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Bottle) "United Brand Pure Extract Vanilla."

It was alleged to be adulterated in that a hydroalcoholic solution of artificial vanilla flavor containing little or no true vanilla extract had been substituted for pure extract vanilla, which it purported to be. Adulteration was alleged further in that it was mixed in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the following statements in the labeling were false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained little or no true vanilla extract: "Pure Extract Vanilla"; "These goods are guaranteed to comply with all State and Federal Pure Food Laws." It was alleged to be misbranded further in that it was an imitation of and was offered for sale under the distinctive name of another article.

On May 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30492. Misbranding of butter. U. S. v. 25 Cases of Butter. Default decree of condemnation and destruction. (F. & D. No. 45154. Sample No. 62781-D.)

This product was short of the declared weight.

On March 23, 1939, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 cases of butter at New Orleans, La.; alleging that the article had been shipped in interstate commerce from Chicago, Ill., in part on or about March 2, 1939, by Cloverleaf Creameries, Inc., and in part on or about March 9, 1939, by the North Pole Cold

Storage Co.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Retail containers) "Kraft Chiffon Pure Whipt Butter 8 Oz. Net Weight Kraft-Phenix Cheese Corp. Chicago, Ill."

It was alleged to be misbranded in that the statement "8 Oz. Net Weight" was false and misleading and tended to deceive and mislead the purchaser; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On May 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30493. Adulteration of butter. U. S. v. One Tub, One Bundle, and Five Tubs of Butter. Default decree of condemnation and destruction. (F. & D. No. 44770. Sample Nos. 44691-D, 44692-D.)

This product contained less than 80 percent of milk fat.

On January 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of six tubs and one 6-pound bundle of butter at Clifton, N. J.; alleging that the article had been transported in interstate commerce from Meistrich & Goldenberg, Inc., New York, N. Y.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by act of March 4, 1923.

On May 8, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30494. Adulteration of butter. U. S. v. 48 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 45046. Sample No. 54142-D.)

This product contained less than 80 percent of milk fat.

On February 24, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about July 13, 1938, by Renwick Community Creamery from Renwick, Iowa; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by act of March 4, 1923.

On March 22, 1939, A. D. Gimer, trading as Renwick Community Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

M. L. WILSON, *Acting Secretary of Agriculture.*

30495. Adulteration of frozen perch fillets. U. S. v. 48 Boxes of Red Perch Fillets. Default decree of condemnation. Product ordered turned over to a Federal institution for fertilizing purposes. (F. & D. No. 45010. Sample No. 54527-D.)

This product was infested with parasitic worms.

On March 11, 1939, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 boxes of perch fillets at Detroit, Mich.; alleging that the article had been shipped in interstate commerce on or about February 27, 1939, by Kroger Grocery & Baking Co. from Cleveland, Ohio; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 5, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered turned over to a Federal institution to be used for fertilizing purposes.

M. L. WILSON, *Acting Secretary of Agriculture.*

30496. Adulteration of canned spinach. U. S. v. 18 Cases of Strained Spinach. Consent decree of condemnation and destruction. (F. & D. No. 45245. Sample No. 30807-D.)

This product contained insect fragments and larvae.

On April 28, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 cases of canned spinach at Denver, Colo., consigned by the Larsen Co., Green Bay, Wis.; alleging that the article had been shipped in interstate commerce on or about March 22, 1939, from Green Bay, Wis.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Red and White Strained Spinach * * * Red & White Corp'n. Distributors Chicago, Ill."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 3, 1939, the shipper having signed authorization for the taking of final decree, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30497. Adulteration of frozen flounder fillets. U. S. v. 57 Boxes of Flounder Fillets. Default decree of condemnation and destruction. (F. & D. No. 44914. Sample Nos. 62742-D, 62743-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On March 1, 1939, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 57 boxes of frozen flounder fillets at New Orleans, La.; alleging that the article had been shipped in part on or about January 8, and in part on or about April 9, 1938, by Beacon Fisheries from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On April 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30498. Adulteration of corn meal. U. S. v. 269 Bags of Corn Meal. Default decree of condemnation and destruction. (F. & D. No. 44094. Sample No. 49787-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested and to contain rodent hairs.

On October 21, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 269 bags of corn meal at Jackson, Miss.; alleging that the article had been shipped on or about August 18, 1938, by the Quaker Oats Co. from St. Joseph, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sea Breeze Cream Corn Meal."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30499. Adulteration of corn meal. U. S. v. 326 Bags of Cream Meal. Default decree of condemnation and destruction. (F. & D. No. 44211. Sample No. 49800-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 21, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 326 bags of corn meal at Jackson, Miss.; alleging that the article had been shipped on or about

September 22, 1938, by Mount Vernon Milling Co. from Mount Vernon, Ind.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Degerminated Posey Country Cream Meal."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30500. Adulteration of frozen salmon. U. S. v. 56 Boxes of Salmon. Default decree of condemnation and destruction. (F. & D. No. 45218. Sample No. 43672-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part decomposed.

On April 19, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 56 boxes of salmon at San Francisco, Calif.; alleging that the article had been shipped on or about March 14, 1939, by Northland Transportation Co., Ex Alaska Coast Fisheries, from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid animal substance.

On May 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30501. Adulteration and misbranding of butter. U. S. v. Svend P. Melgaard (Melgaard Creamery Co.). Plea of guilty. Fine, \$34. (F. & D. No. 40816. Sample Nos. 38893-C, 39784-C, 39794-C, 41269-C, 48039-C.)

This product contained less than 80 percent of milk fat.

On May 21, 1938, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Svend P. Melgaard, trading as Melgaard Creamery Co., Salt Lake City, Utah, alleging sale and delivery by said defendant under a guaranty that the article was not adulterated or misbranded in violation of the Food and Drugs Act, of various quantities of butter; that the said butter in the identical condition as when sold, delivered, and guaranteed, was shipped in interstate commerce from the State of Utah into the State of Nevada, within the period from on or about May 24 to on or about August 23, 1937; that the said article when so shipped was adulterated and misbranded in violation of the Food and Drugs Act, and that by reason of said guaranty the defendant was amenable to prosecution for such shipments and to the penalties thereby incurred. The article was labeled in part: "Armour's Star * * * Quality Cloverbloom Full Cream Butter."

It was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by act of March 4, 1923.

It was alleged to be misbranded in that the statement "Butter," borne on the label, was false and misleading, since the said statement represented that the article was butter, a product which should contain not less than 80 percent milk fat; whereas it did not contain 80 percent by weight of milk fat, but did contain a less amount.

On April 19, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$34.

M. L. WILSON, *Acting Secretary of Agriculture.*

30502. Misbranding of cottonseed meal and cottonseed screenings. U. S. v. Muskogee Cotton Oil Co. Plea of guilty. Fine, \$100. (F. & D. No. 42516. Sample Nos. 664-C, 667-C.)

These products contained less protein and more fiber than declared on the labels.

On June 14, 1938, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Muskogee Cotton Oil Co., a corporation, Muskogee, Okla., alleging shipment by said company in violation of the Food

and Drugs Act, on or about September 30 and October 13, 1937, from the State of Oklahoma into the State of Kansas, of quantities of cottonseed meal and cotton-seed screenings that were misbranded. The articles were labeled in part: "Red Seal Brand Cotton Seed Cake and Meal * * * Manufactured by and for Muskogee Cotton Oil Co."; or "Army Brand Prime Quality * * * Cotton-seed Cake and Meal Manufactured For and Guaranteed By Louis Tobian & Company Dallas, Texas."

The articles were alleged to be misbranded in that the statements borne on the tags, (one lot) "Protein not less than 41 percent" and "Crude Fiber not more than 13 percent," and (other lot) "Crude Protein not less than 43.00%," and "Crude Fiber, not more than 12.00%," were false and misleading and were borne on the tags so as to deceive and mislead the purchaser, since the former contained not more than 37.38 percent of protein and not less than 17.01 percent of crude fiber, and the latter contained not more than 40.81 percent of crude protein and not less than 14.03 percent of crude fiber.

On April 17, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30503. Oranges damaged by drying. U. S. v. 215 Boxes of Oranges. Default decree of condemnation. Portion fit for human consumption ordered disposed of for charitable purposes. Remainder ordered destroyed. (F. & D. No. 44978. Sample Nos. 37363-D, 37364-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to consist in part of fruit which had been damaged by drying.

On February 16, 1939, the United States attorney for the District of South Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 215 boxes of oranges at Sioux Falls, S. Dak.; alleging that the article had been shipped on or about January 8, 1939, by Western Fruit Growers, Inc., from Redlands, Calif.; and charging violation of the Food and Drugs Act. The article was labeled in part, "Aurora W Navels."

The libel alleged in substance that citrus fruit damaged by drying had been substituted wholly or in part for edible citrus fruit which the article purported to be, in violation of section 7 of the Food and Drugs Act, paragraph second under foods.

On April 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed, with the exception of such portions as might be fit for human consumption, which were directed to be disposed of for charitable purposes.

M. L. WILSON, *Acting Secretary of Agriculture.*

30504. Misbranding of canned cherries. U. S. v. 75 Cases of Canned Cherries. Product ordered released under bond. (F. & D. No. 44361. Sample No. 5681-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On November 17, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 75 cases of canned cherries at Wichita Falls, Tex.; alleging that the article had been shipped in interstate commerce on or about August 22, 1938, from Fort Collins, Colo., by the Producers Canning Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Highland Brand Water Pack Colorado Red Pitted Cherries."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit per 20 ounces of net contents, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard. A further allegation of misbranding was that the statement "Red Pitted Cherries" was false and misleading and was calculated to deceive the purchaser.

On December 3, 1938, Producers Canning Co. having appeared as claimant and having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it not be disposed of contrary to law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30505. Adulteration of frozen whole eggs. **U. S. v. Marshall Kirby & Co., Inc.**
Plea of guilty. **Fine, \$200.** (F. & D. No. 42521. Sample No. 13894-D.)

This product was in whole or in part decomposed.

On July 13, 1938, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Marshall Kirby & Co., Inc., Terre Haute, Ind., alleging shipment by said defendant in violation of the Food and Drugs Act on or about September 29, 1937, from the State of Indiana into the State of Rhode Island of a quantity of frozen eggs that were adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed and putrid animal substance.

On March 24, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

30506. Adulteration of cashew nut kernels. **U. S. v. 99 Cases of Cashew Nut Kernels.** **Product ordered released under bond.** (F. & D. No. 43926. Sample No. 20080-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be in part insect-infested.

On September 20, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of cashew nut kernels at Los Angeles, Calif.; alleging that the article had been shipped on or about August 17, 1938, by William A. Higgins & Co. from Portland, Oreg.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On October 17, 1938, William A. Higgins & Co., New York, N. Y., claimant, having admitted the allegations of the libel, judgment was entered ordering release of the product under bond conditioned that it should not be disposed of in violation of the Federal Food and Drugs Act. The unfit portion was sorted out and destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30507. Adulteration of fish roe. **U. S. v. One Tub and One Barrel of Fish Roe.**
Default decree of condemnation and destruction. (F. & D. Nos. 45032, 45033. Sample Nos. 59829-D, 59830-D.)

Samples of this product were found to contain parasitic worms and nondescript tissue fragments.

On March 16, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub and one barrel of fish roe at New York, N. Y.; alleging that the article had been shipped in interstate commerce from Two Rivers, Wis., in part on or about February 18, 1939, by Rawley Fish Co., Inc., and in part on or about February 21, 1939, by Charles Bowlinger; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30508. Adulteration of butter. **U. S. v. 11 Boxes, 29 Boxes, and 31 Cases of Butter.** **Decree of condemnation.** **Product released under bond.** (F. & D. Nos. 45283, 45340, 45405. Sample Nos. 51542-D, 51556-D, 51569-D, 51734-D.)

This product contained less than 80 percent of milk fat.

On April 28, May 6, and May 17, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 40 boxes and 31 cases of butter at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about April 22, April 29, and May 5, 1939, by St. Stephens Cooperative Creamery Co. from St. Stephens, Minn.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On May 18, 1939, C. J. Heyd & Co., Philadelphia, Pa., having appeared as claimant and the cases having been consolidated, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30509. Adulteration of salted fish roe. U. S. v. One Tub of Salted Fish Roe. Default decree of condemnation and destruction. (F. & D. No. 45126. Sample No. 60217-D.)

This product contained parasitic worms.

On April 4, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of salted fish roe at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about March 11, 1939, by Clarence Schipper from Two Rivers, Wis.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30510. Adulteration of pecan meats. U. S. v. Two Cases of Pecan Meats. Default decree of condemnation and destruction. (F. & D. No. 45194. Sample Nos. 44759-D, 60505-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part wormy and decomposed.

On April 14, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two cases of pecan meats at New York, N. Y.; alleging that the article had been shipped on or about March 23, 1939, by Howard Dasher from Valdosta, Ga.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On May 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30511. Adulteration of lobster tails. U. S. v. Four Boxes and One Box of Lobster Tails. Default decree of condemnation and destruction. (F. & D. Nos. 44748, 44749. Sample Nos. 33482-D, 33483-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in whole or in part decomposed.

On January 27, 1939, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five boxes of lobster tails at Detroit, Mich.; alleging that the product had been shipped on or about November 9, 1938, by M. Feigenbaum & Sons from Pittsburgh, Pa.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Captain Brand Langouste Tails [or "Cape Rock Lobster"] * * * Produce of Union of South Africa."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30512. Adulteration of butter. U. S. v. 12 Tubs and 16 Tubs of Butter. Consent decree of condemnation. Product released under bond to be re-worked. (F. & D. Nos. 45097, 45101. Sample Nos. 54147-D, 54149-D.)

This product contained less than 80 percent of milk fat.

On March 10 and 13, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in

the district court libels praying seizure and condemnation of 28 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 17 and 22, 1938, by Deer Creek Creamery Co. from Atchison, Kans.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as provided by act of March 4, 1923.

On March 24, 1939, Deer Creek Creamery Co., claimant, having admitted the allegations of the libels and the cases having been consolidated, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be reworked under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30513. Adulteration of whitefish roe. U. S. v. One Tub of Fish Roe. Default decree of condemnation and destruction. (F. & D. No. 45091. Sample No. 12165-D.)

This product contained parasitic worms, fish scales, and nondescript tissue.

On March 25, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one tub of fish roe at New York, N. Y.: alleging that the article had been shipped in interstate commerce on or about March 6, 1939, by Rawley Fish Co. from Two Rivers, Wis.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30514. Adulteration of flour. U. S. v. 271 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 44067. Sample No. 49776-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested and to contain rodent hairs.

On October 28, 1938, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 271 bags of flour at Clarksdale, Miss.; alleging that the article had been shipped on or about August 25, 1938, by Monroe Flour Co. from Memphis, Tenn.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On January 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30515. Adulteration of frozen salmon. U. S. v. 780 Fish. Default decree of condemnation and destruction. (F. & D. No. 45165. Sample No. 39697-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On April 8, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 780 frozen salmon at Portland, Oreg.; alleging that the article had been shipped on or about October 10, 1938, from Aberdeen, Wash., by John Hannula Jr. Fish Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On May 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30516. Adulteration of canned oysters. U. S. v. 300 Cases of Canned Oysters. Default decree of condemnation and destruction. (F. & D. No. 45016. Sample Nos. 37138-D, 37139-D.)

This product contained sharp pieces of shell that were small enough to be swallowed and were capable of inflicting injury.

On March 11, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cases of canned oysters at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about January 11 and 17, 1939, by Burgess Canning Co., Inc., from New Orleans, La.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Jas. V. D. Brand Cove Oysters Distributed by Jas. V. Dunbar, Inc., New Orleans, La."

It was alleged to be adulterated in that small [shell] fragments had been mixed and packed with it so as to reduce or lower its quality and had been substituted in part for oysters, which it purported to be. It was alleged to be adulterated further in that it contained an added deleterious ingredient, oyster shell fragments, which might have rendered it injurious to health.

On May 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30517. Adulteration and misbranding of canned lemon juice, lime juice, and orange juice. U. S. v. 12 Cases of Lemon Juice (and 4 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 44917 to 44921, inclusive. Sample Nos. 59282-D, 59284-D, 59285-D, 59286-D, 59289-D, 59290-D, 59291-D.)

These products, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, were found to contain enamel lining from the cans. Some lots contained added water, and the labeling of all lots bore false and fraudulent health claims.

On March 1 and March 10, 1939, the United States attorney for the District of New Jersey and the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district courts libels praying seizure and condemnation of 251 cases of canned lemon, lime, and orange juices in various lots at Newark, N. J., and New York, N. Y., consigned by Pure Foods Corporation; alleging that the articles had been shipped within the period from on or about June 21, 1936, to on or about February 27, 1938, in various shipments from Los Angeles, Calif., Detroit, Mich., and Minneapolis, Minn.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Golden Flow Brand."

All lots were alleged to be adulterated in that inedible products containing enamel lining from the container had been substituted for lemon juice, orange juice, and lime juice, which they purported to be. The lime juice and portions of the lemon juice were alleged to be adulterated further in that water had been mixed and packed with them so as to reduce or lower their quality, and in that they had been mixed in a manner whereby inferiority was concealed.

Certain lots were alleged to be misbranded in that the statement "Pure," borne on the label, was false and misleading when applied to articles containing enamel lining from the container. The remaining lots were alleged to be misbranded in that the statements, "Pure Lemon Juice," "Pure Lemon Juice Pure Fruit Acid Added," "Pure Lime Juice," and "Only Choice and Imported Limes used," borne on the labels, were false and misleading when applied to articles that were mixtures of citrus juices and water and which contained enamel lining from the container. All lots were alleged to be misbranded further in that the following statements on the can labels regarding their curative or therapeutic effects were false and fraudulent: (Lemon and lime) "Repels nerve inflammation. Of special value in southern climates to combat disease. An aid to Beauty and Health of skin and scalp when applied externally"; (orange) "Helps to combat germ infection of the mucous membranes. Of particular value in combating acidosis. Stimulates appetite and growth. Prevents scurvy. Nature's aid in obtaining the alkaline balance."

On March 29 and 30, 1939, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30518. Adulteration of Limburger cheese. U. S. v. Four Cases of Limburger Cheese. Default decree of condemnation and destruction. (F. & D. No. 45008. Sample No. 48301-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to contain insects, insect fragments, and rodent hairs.

On March 11, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four cases of Limburger cheese at Minneapolis, Minn.; alleging that the article had been shipped on or about February 7, 1939, by Badger Brodhead Cheese Co. from Monroe, Wis.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Wrapper) "Blue Seal Naturally Ripened Limburger Cheese."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30519. Adulteration of candy. U. S. v. Eight Cartons of Candy. Default decree of condemnation and destruction. (F. & D. No. 43665. Sample No. 37978-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight cartons of candy at Hattiesburg, Miss.; alleging that the article had been shipped on or about April 28, 1938, by Hollywood Candy Co. from Minneapolis, Minn.; and charging adulteration in violation of the Food and Drugs Act. The candy was labeled in part "3 Pigs."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30520. Adulteration of tomato puree. U. S. v. Gervas Canning Co., Inc., and Stanley J. Drago. Pleas of guilty. Corporation fined \$100. Stanley J. Drago fined \$100, payment of which was suspended and defendant placed on probation for 1 year. (F. & D. No. 42675. Sample Nos. 35664-D, 35665-D.)

This product contained excessive mold.

On February 27, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Gervas Canning Co., Inc., Fredonia, N. Y., and Stanley J. Drago, president and treasurer of said corporation, alleging shipment by said defendants on or about September 17 and 28, 1938, from the State of New York into the State of Massachusetts, in violation of the Food and Drugs Act, of quantities of tomato puree which was adulterated. The article was labeled in part: (Cans) "Gervas Brand Tomato Puree."

It was alleged to be adulterated in that it consisted in part of a decomposed vegetable substance, tomato puree that contained excessive mold.

On March 22, 1939, pleas of guilty were entered on behalf of the defendants. The corporation was fined \$100. Stanley J. Drago was fined \$100, payment of which was suspended and he was placed on probation for 1 year.

M. L. WILSON, *Acting Secretary of Agriculture.*

30521. Adulteration of frozen fish. U. S. v. 33 Boxes of Haddock Fillets. Default decree of condemnation and destruction. (F. & D. No. 45076. Sample Nos. 50367-D, 50390-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On March 22, 1939, the United States attorney for the Northern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 boxes of frozen haddock fillets at Birmingham, Ala.; alleging that the article had been shipped

by the Atlantic Coast Fisheries Corporation of New York, N. Y., from Boston, Mass., on or about February 8, 1939; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Nordic Hadd Fillets."

Adulteration was alleged in that the article consisted wholly or in part of a decomposed animal substance.

On May 1, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30522. Adulteration and misbranding of tomato catsup. U. S. v. 89 Cases and 42 Cartons of Tomato Catsup. Default decrees of condemnation and destruction. (F. & D. Nos. 44825, 44974. Sample Nos. 39810-D, 39847-D.)

Samples of this product were found to contain insect fragments, worm fragments, and rodent hairs. It also was short weight.

On February 10 and March 7, 1939, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 131 cases and cartons of tomato catsup at Seattle, Wash.; alleging that the article had been shipped in interstate commerce on or about January 9 and February 11, 1939, by Val Vita Food Products, Inc., from Los Angeles, Calif.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Monte Rio Tomato Catsup * * * Orange County Canners, Inc., Fullerton, Calif."

Adulteration was alleged in that the article consisted wholly or in part of a filthy vegetable substance.

Misbranding was alleged in that the statement "Nt. Wt. 14 Oz." borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to a product which was short weight. It was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30523. Adulteration and misbranding of wheat gray shorts and screenings. U. S. v. Rodney Milling Co. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42703. Sample No. 3911-D.)

Wheat brown shorts had been substituted in whole or in part for wheat gray shorts in this product. It also contained a larger percentage of crude fiber and a smaller percentage of nitrogen-free extract than declared on the label.

On April 14, 1939, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Rodney Milling Co., a corporation trading at Kansas City, Mo., alleging shipment by said company in violation of the Food and Drugs Act on or about October 7, 1938, from the State of Missouri into the State of Texas, of a quantity of wheat gray shorts and screenings that were adulterated and misbranded. The article was labeled in part: (Tag) "Jersey Wheat Gray Shorts and Screenings."

Adulteration was alleged in that wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings, which the article purported to be.

Misbranding was alleged in that the statements, "Wheat Gray Shorts and Screenings" and "Crude Fiber not more than 6.00 Per Cent Nitrogen-Free Extract not less than 55.00 Per Cent," borne on the tag, were false and misleading and were borne on the said tag so as to deceive and mislead the purchaser since the article did not consist of wheat gray shorts and screenings, but did consist in whole or in part of wheat brown shorts and screenings; it contained more than 6 percent, namely, not less than 6.96 percent of crude fiber, and contained less than 55 percent, namely, not more than 53.82 percent of nitrogen-free extract.

On May 5, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

30524. Adulteration of flour. U. S. v. 91 Bags of Flour (and 6 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44181, 44188 to 44193, inclusive. Sample Nos. 49793-D to 49799-D, inclusive.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On October 21, 1938, the United States attorney for the Southern District of Mississippi, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 452 bags of flour at Jackson, Miss.; alleging that the article had been shipped within the period from on or about July 11, 1938, to on or about September 12, 1938, by Ballard & Ballard Co., Inc., in various shipments from Louisville, Ky., Nashville, Tenn., and Sherman, Tex.; and charging adulteration in violation of the Food and Drugs Act. Portions of the article were labeled: "Table Talk [or "Baker's Special," "Ballards One Forty," "Blue Bird," or "Ballard's BBF"] Flour * * * Ballard and Ballard Co., Inc., Louisville, Ky." The remainder was labeled: "Snowball Flour * * * Packed for O. K. Mills, Louisville, Ky."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 2, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30525. Adulteration of frozen fish. U. S. v. 600 Boxes of Ocean Perch (and 10 other seizure actions against similar products). Decrees of condemnation. Two lots ordered released under bond conditioned that good portion be salvaged. Remaining lots ordered destroyed. (F. & D. Nos. 44833, 44865, 44889, 44890, 44891, 44930, 44941, 45036, 45037, 45038, 45043, 45094, 45100, 45108, 45150. Sample Nos. 32383-D, 34392-D, 35121-D, 37381-D, 41194-D, 41196-D, 41197-D, 44967-D, 50317-D, 50318-D, 50319-D, 54042-D, 54716-D, 62644-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination decomposition was found in certain lots, others contained parasitic worms, and in others both conditions were found.

Between February 24 and April 6, 1939, the United States attorneys for the District of Colorado, Northern District of Illinois, Middle District of Alabama, Eastern District of Wisconsin, District of Columbia, Southern District of Texas, Northern District of Georgia, District of Nebraska, Western District of New York, and the Southern District of West Virginia, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 4,717 cases and boxes of frozen fish, in various lots at Denver, Colo., Chicago, Ill., Montgomery, Ala., Omaha, Nebr., Milwaukee, Wis., Washington, D. C., Houston, Tex., Atlanta, Ga., Elmira, N. Y., and Charleston, W. Va. The libels alleged that the article had been shipped within the period from on or about September 26, 1938, to on or about March 22, 1939; that the shipments, with one exception, had been made by Gorton-Pew Fisheries Co., Ltd., from Gloucester, Mass.; and that it was adulterated in violation of the Food and Drugs Act. One shipment had been made by the Commonwealth Ice & Cold Storage Co. for Gorton-Pew Fisheries, from Boston, Mass. The article was labeled in part variously: "Clipper Brand Ocean Perch"; "Ocean Perch"; "Gorton's Butterfly Whiting Fillets"; "H & G Whiting."

It was alleged to be adulterated in that a portion consisted wholly or in part of a decomposed animal substance, a portion consisted wholly or in part of a filthy animal substance, and a portion consisted in whole or in part of a filthy and decomposed animal substance.

On March 28 and April 14, 1939, Gorton-Pew Fisheries Co., Ltd., having appeared as claimant for the lots seized at Montgomery, Ala., and Chicago, Ill., judgments of condemnation were entered and the said lots were ordered released under bond for salvaging the good portion. Between March 21 and May 19, 1939, no claim having been entered for the remaining lots, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30526. Adulteration of strawberry preserves. U. S. v. 6 Cases, 34 Cases, and 19 Cases of Strawberry Preserves. Default decree of condemnation and destruction. (F. & D. No. 45031. Sample No. 64024-D.)

Examination of this product showed the presence of moldy berries.

On or about March 24, 1939, the United States attorney for the Eastern District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 59 cases of strawberry preserves at Walla Walla, Wash.; alleging that the article had been shipped in interstate commerce on or about July 5 and 16, 1938, by Kerr Conserving Co. from Portland, Oreg.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Jars) "Kerr's Pure Preserves Strawberry."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance.

On May 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30527. Adulteration of canned salmon. U. S. v. 49 Cases and 48 Cases of Salmon. Consent decree of condemnation. Product released under bond conditioned that unfit portion be destroyed. (F. & D. Nos. 44062, 44063. Sample Nos. 35710-D, 35711-D.)

This product was in part decomposed.

On October 5, 1938, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 97 cases of canned salmon at Boston, Mass.; alleging that the article had been shipped in interstate commerce on or about August 2, 1938, by Taylor Edwards Warehouse & Transfer Co. from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Milton Quality Red Alaska Salmon * * * M. I. Kimball & Co. Distributors Lawrence, Mass."; or "Silver Harvest Brand Red Alaska Sockeye Salmon * * * Wm. W. McBride Co., Seattle, Wash. Distributors."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On November 14, 1938, North Pacific Sea Foods Co., Dayville, Alaska, claimant, having admitted the allegations of the libel and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond conditioned that the unfit portion be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30528. Misbranding of canned tuna flakes. U. S. v. 43 Cases and 25 Cases of Tuna Flakes. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. Nos. 44950, 44951. Sample Nos. 59658-D, 59659-D.)

This product was short of the declared weight.

On March 7, 1939, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 68 cases of canned tuna flakes at Schenectady, N. Y.; alleging that the article had been shipped in interstate commerce in part on or about October 22, 1938, by the Halfhill Co., Ltd., from Los Angeles, Calif., and in part on or about December 17, 1938, by West Coast Packing Corporation from Long Beach, Calif.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Jes-so Tuna Fakes Contents 13 Oz. Avoir. Packed For Sweet Life Food Distributors Brooklyn, New York."

It was alleged to be misbranded in that the statement "Contents 13 Oz. Avoir." was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package since the quantity stated was not correct.

On May 1, 1939, Grosberg-Golub Co., Inc., Schenectady, N. Y., claimant for both lots, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30529. Adulteration of tomato catsup and tomato juice cocktail. U. S. v. Curtice Bros. Co. Plea of nolo contendere. Fine, \$150. (F. & D. No. 42586. Sample Nos. 13816-D, 13817-D, 14160-D.)

These products contained excessive mold.

On October 31, 1938, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Curtice Bros. Co., a corporation, Rochester, N. Y., alleging shipment by said defendant, within the period from on or about February 7, 1938, to on or about March 15, 1938, from the State of New York into the State of Massachusetts of quantities of tomato catsup and tomato juice cocktail that were adulterated. The articles were labeled in part: "Blue Label Ketchup [or "Tomato Juice Cocktail"]".

They were alleged to be adulterated in that they consisted in whole or in part of filthy and decomposed vegetable substances, i. e., tomato products which were made from moldy tomatoes.

On March 13, 1939, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$150.

M. L. WILSON, *Acting Secretary of Agriculture.*

30530. Adulteration of frozen eggs. U. S. v. Oliver G. Harp (O. G. Harp Poultry & Egg Co.). Plea of guilty. Fine, \$25 and costs. (F. & D. No. 42695. Sample No. 12135-D.)

This product was in whole or in part decomposed and putrid.

On April 24, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Oliver G. Harp, trading as O. G. Harp Poultry & Egg Co., Shawnee, Okla., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about September 17, 1938, from the State of Oklahoma into the State of New Jersey of a quantity of frozen eggs which were adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance.

On April 29, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$25 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

30531. Adulteration of flour. U. S. v. 26 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 45220. Sample No. 37154-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was infested with beetles, larvae, webbing, and excreta.

On April 22, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 26 bags of flour at Sacramento, Calif.; alleging that the article had been shipped on or about July 31, 1937, by Crowther Bros. Milling Co. from Malad City, Idaho; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Big C Flour."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30532. Adulteration of tomato puree. U. S. v. Beech-Nut Packing Co. Plea of nolo contendere. Fine, \$100. (F. & D. No. 42641. Sample Nos. 768-D, 9514-D.)

This product contained excessive mold.

On February 6, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Beech-Nut Packing Co., a corporation, Rochester, N. Y., alleging shipment by said defendant within the period from on or about November 24, 1937, to on or about January 17, 1938, from the State of New York into the States of Florida and Pennsylvania, of quantities of tomato puree that was adulterated in violation of the Food and Drugs Act. The article was labeled in part: "Beech-Nut Brand * * * Tomato Puree."

The product was alleged to be adulterated in that it consisted in whole or in part of a decomposed and filthy vegetable substance.

On May 9, 1939, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30533. Adulteration and misbranding of butter. U. S. v. 42 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 45182. Sample No. 57613-D.)

This product contained less than 80 percent of milk fat.

On March 24, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 cubes of butter at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about March 17, 1939, by Brooklawn Creamery Co. from Beaver, Utah; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by act of March 4, 1923.

Misbranding was alleged in that the statement "Sweet Cream Butter," borne on the label, was false and misleading and deceived and misled the purchaser when applied to a product which contained less than 80 percent of milk fat.

On April 14, 1939, the Brooklawn Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to legal standard under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30534. Adulteration of frozen eggs. U. S. v. Ralph Hurst & Co. Plea of guilty. Fine, \$10. (F. & D. No. 42696. Sample No. 25613-D.)

This product was in part decomposed.

On April 14, 1939, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ralph Hurst & Co., a corporation, Kansas City, Mo., alleging shipment by said defendant on or about September 3, 1938, from the State of Missouri into the State of New Jersey, of a quantity of frozen eggs that were adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On May 8, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$10.

M. L. WILSON, *Acting Secretary of Agriculture.*

30535. Adulteration of flour. U. S. v. 1,812 Bags of Flour. Portion of product (76 bags) ordered forfeited and released under bond. Remainder released unconditionally. (F. & D. No. 44325. Sample No. 34521-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination a portion was found to be insect-infested.

On or about November 22, 1938, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,812 bags of flour at Wilmington, N. C.; alleging that the article had been shipped on or about July 14, 1938, by Fisher Flouring Mills Co. from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Red Tag Flour."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On December 13, 1938, 1,485 bags of flour having been seized, the Fisher Flouring Mills Co. filed a claim and an answer denying that the flour was adulterated. A subsequent investigation disclosed that the flour was from two different shipments and that but 76 of the bags seized were covered by the libel. On April 18, 1939, the court ordered that the 1,409 bags that were not covered by the libel be delivered to the claimant. On the same date, the claimant having consented, judgment of forfeiture was entered with respect to the

remaining 76 bags and they were ordered released under bond conditioned that they be disposed of in compliance with the law. They were denatured and disposed of for hog feed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30536. Adulteration and misbranding of chicory. U. S. v. 98 Bags of Chicory (and 1 other seizure action against the same product). Default decree of condemnation and destruction. (F. & D. Nos. 44822, 44832. Sample Nos. 34961-D, 34962-D, 34963-D, 49628-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to contain insect fragments. Two lots were also short weight.

On February 9 and 14, 1939, the United States attorneys for the Eastern District of Louisiana and the District of Maryland, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of ninety-eight 150-pound bags of chicory at New Orleans, La., and 16½ cases, each containing a number of packages of chicory, at Baltimore, Md. The libels alleged that 7½ cases of the product had been shipped on or about April 13, 1937, by Seggerman Nixon Corporation from the warehouse of Heinr. Franck Sons, Inc., from Corona, N. Y., to Baltimore, Md.; that the remainder had been shipped by Heinr. Franck Sons, Inc., in part from Hoboken, N. J., into the State of Louisiana on or about December 31, 1938, and in part from Corona, N. Y., into the State of Maryland on or about January 13, 1939; and that it was adulterated and that portions were misbranded in violation of the Food and Drugs Act as amended. The product contained in the bags was labeled: "No O Dark R&G Chicory * * * From Heinr. Franck Sons Inc." The remainder was labeled: "Franck Chicory Net Weight 6¾ Ozs. Heinr. Franck Sons, Inc." The remainder of the packages were labeled: "Chicory Scheuer Brand Contents 2 Ounces [or "3¾ Ounces"] * * * Manufactured by Hein. Franck Sons Inc. Flushing New York * * * Seggerman Nixon Corp. Sole Distributors."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

Portions of the article were alleged to be misbranded in that the statements, "Contents 2 Ounces" and "Contents 3¾ Ounces," were false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On April 3 and May 11, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30537. Adulteration of frozen fish fillets. U. S. v. 50 Boxes and 70 Boxes of Fish Fillets. Default decree of condemnation and destruction. (F. & D. Nos. 45134, 45135. Sample Nos. 40937-D, 40938-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in whole or in part decomposed.

On April 6, 1939, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 120 boxes of fish fillets at Albuquerque, N. Mex.; alleging that the article had been shipped on or about January 5, 1939, by Mid-Central Fish Co. from Kansas City, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Choice Pakt Fillets A Bespakt Product" and "Nordic Fillet Finest Quality."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid animal substance.

On May 16, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30538. Adulteration and misbranding of butter. U. S. v. Missouri Valley Creamery Co. Plea of guilty. Fine, \$50. (F. & D. No. 42701. Sample No. 38979-D.)

This product contained less than 80 percent of milk fat.

On May 11, 1939, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Missouri Valley Creamery Co., a corporation, Washington, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act, within the period from on or about October 29, 1938, to on or about November 4, 1938, from the State of Missouri into the State of Illinois, of quantities of butter that was adulterated and misbranded.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by act of March 4, 1923.

It was alleged to be misbranded in that the statement "Butter," borne on the cases, was false and misleading since it represented that the article was butter, to wit, a product which should contain not less than 80 percent by weight of milk fat; whereas it did not contain 80 percent by weight of milk fat, but did contain a less amount.

On May 18, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30539. Adulteration of potato ferment. U. S. v. 23 Sacks of Potato Ferment. Default decree of condemnation and destruction. (F. & D. No. 44997. Sample No. 39677-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On March 14, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 23 sacks of potato ferment at Portland, Oreg.; alleging that the article had been shipped on or about January 30, 1939, by Falk Products Co. from Glendale, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Falk Natural Potato Ferment."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 9, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30540. Adulteration of tullibees. U. S. v. 22 Boxes of Tullibees. Default decree of condemnation and destruction. (F. & D. No. 45205. Sample No. 48140-D.)

This product was infested with parasitic worms.

On April 17, 1939, the United States attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 boxes of tullibees at Green Bay, Wis.; alleging that the article had been shipped on or about January 26, 1939, by the Viking Fish Co. from Winnipeg, Canada; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Product of Canada."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On May 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30541. Adulteration of frozen grayling. U. S. v. Five Boxes of Frozen Grayling. Default decree of condemnation and destruction. (F. & D. No. 45118. Sample No. 39682-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be decomposed.

On March 29, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel

praying seizure and condemnation of five boxes of frozen fish at Portland, Oreg.; alleging that the article had been shipped on or about March 13, 1939, by Washington Fish & Oyster Co., Inc., from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On May 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30542. Adulteration of blackeye beans. U. S. v. 15 Bags of Blackeye Beans. Default decree of condemnation and destruction. (F. & D. No. 45000. Sample No. 43635-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested.

On March 11, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 bags of blackeye beans at Portland, Oreg.; alleging that the article had been shipped on or about February 17, 1939, by Trinidad Bean & Elevator Co. from Oakland, Calif.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On April 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30543. Adulteration of chub roe. U. S. v. Two Tubs of Fish Roe. Default decree of condemnation and destruction. (F. & D. No. 45228. Sample No. 60522-D.)

This product contained parasitic worms, also fish scales and nondescript tissue.

On April 24, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two tubs of fish roe at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about April 6, 1939, by Emery J. Larson from Sturgeon Bay, Wis.; and charging adulteration in violation of the Foods and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 13, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30544. Adulteration of tullibees. U. S. v. Sivert A. Selvig (Selvig Fish Co.). Plea of guilty. Fine, \$400. (F. & D. No. 42673. Sample Nos. 13047-D, 13049-D, 19532-D, 21282-D, 21283-D.)

This product was infested with parasitic worms.

On May 6, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Sivert A. Selvig, trading as Selvig Fish Co., Warroad, Minn., alleging shipment by said defendant within the period from on or about September 16, 1938, to on or about October 4, 1938, from the State of Minnesota into the States of New York and Illinois, of quantities of tullibees that were adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance, to wit, parasite-infested fish. It was alleged to be adulterated further in that it consisted of portions of animals unfit for food.

On May 6, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$400.

M. L. WILSON, *Acting Secretary of Agriculture.*

30545. Adulteration of frozen strawberries. U. S. v. 30 Barrels of Frozen Sliced Strawberries. Default decree of condemnation and destruction. (F. & D. No. 45056. Sample No. 39481-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part moldy.

On March 20, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 barrels of frozen sliced strawberries at Salem, Oreg.; alleging that the article had been shipped on or about March 3 and 4, 1939, by Allen Fruit Co., of Sumas, Wash., from Seattle, Wash.; and charging adulteration in violation of the Foods and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, and putrid vegetable substance.

On May 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30546. Misbranding of bone and meat scrap. U. S. v. Norton & Co., Inc. Plea of nolo contendere. Fine, \$100. (F. & D. No. 36957. Sample No. 8345-B.)

This product contained a smaller percentage of protein than that declared on the label.

On May 11, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Norton & Co., Inc., South Washington, Va., alleging that on or about September 13, 1935, the said defendant delivered for shipment from the State of Virginia into the State of Maryland, a quantity of bone and meat scrap which was misbranded in violation of the Food and Drugs Act.

Misbranding was alleged in that the statement "Guaranteed Analysis Protein 50%", borne on the bag containing the article, was false and misleading and was borne on the said bag so as to deceive and mislead the purchaser since the article contained less than 50 percent of protein, namely, not more than 46.07 percent of protein.

On June 6, 1938, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30547. Adulteration of frozen fish fillets. U. S. v. 25 Cases of Frozen Fish (and 7 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 44984, 45009, 45042, 45047, 45099, 45124, 45136, 45138, 45216. Sample Nos. 30706-D, 30707-D, 31196-D, 40943-D, 43103-D, 43513-D, 49738-D, 52303-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination a portion was found to be decomposed and the remainder was infested with parasitic worms.

Between March 10 and April 18, 1939, the United States attorneys for Northern District of Texas, District of Colorado, Western District of New York, Western District of Pennsylvania, District of New Mexico, and the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 25 cases of frozen fish at Dallas, Tex., 188 packages of perch fillets at Denver, Colo., 48 cartons of red perch at Pittsburgh, Pa., 244 boxes of perch at Buffalo, N. Y., 16 boxes of whiting at Albuquerque, N. Mex., and 95 boxes of cod fillets at San Francisco, Calif.; alleging that the article had been shipped within the period from on or about July 22, 1938, to on or about March 8, 1939, by Booth Fisheries Corporation in various shipments from Boston, Mass., Chicago, Ill., and Denver, Colo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously: "Cape Ann Ocean Perch"; "Red Fish Fillets"; "Booth Tasty Loins Red Perch"; "Stk. Whiting"; "H & G Whiting Booth"; and "Cod Booth Tasty Loins."

It was alleged to be adulterated in that a portion consisted in whole or in part of a filthy animal substance, and the remainder consisted in whole or in part of a decomposed and putrid animal substance.

Between April 8 and May 16, 1939, no claim having been entered, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30548. Adulteration of flour. U. S. v. 500 Bags of Flour (and 5 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44854 to 44859, inclusive. Sample Nos. 50252-D to 50257-D, inclusive.)

This product, which had been shipped in interstate commerce, at the time of examination was found to be insect-infested.

On February 20, 1939, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,278 bags of flour at Vicksburg, Miss.; alleging that the article had been shipped on or about March 30, 1939, by the Sperry Flour Mills from Ogden, Utah; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Morning Joy Flour."

Adulteration was alleged in that the article consisted wholly or in part of a filthy vegetable substance.

On May 16, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30549. Adulteration of frozen fillets. U. S. v. 359 Boxes of Perch Fillets (and 13 other seizure actions against similar products). Decrees of condemnation and destruction. (F. & D. Nos. 44898, 44901, 44943, 44964, 44965, 44983, 45003, 45039, 45057, 45071, 45077 to 45082, inclusive, 45115, 45123, 45183. Sample Nos. 16393-D, 29436-D, 34998-D, 41201-D, 41202-D, 41203-D, 41208-D, 41209-D, 41210-D, 43113-D, 43149-D, 43156-D, 44960-D, 48079-D, 49639-D, 49733-D, 50353-D, 53104-D, 54519-D, 54525-D, 58960-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination decomposition was found in certain lots, other lots were infested with parasitic worms, and in some lots both conditions were found.

Between February 23 and April 11, 1939, the United States attorneys for the Eastern District of Louisiana, Eastern District of Missouri, Northern District of Ohio, District of Minnesota, Northern District of Texas, Southern District of West Virginia, Eastern District of Michigan, Southern District of Georgia, Western District of Pennsylvania, Southern District of Ohio, and the District of Colorado, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 3,070 boxes and 569 cases of fillets in various lots at New Orleans, La., St. Louis, Mo., Cleveland, Ohio, Minneapolis, Minn., Dennison, Ohio, Dallas, Tex., Charleston, W. Va., Detroit, Mich., Augusta, Ga., Pittsburgh, Pa., Cincinnati, Ohio, and Denver, Colo. The libels alleged that the article had been shipped by the General Seafoods Corporation, in most instances from Boston, Mass., one shipment having been made from Cleveland, Ohio; that one of the shipments was made on or about December 23, 1937, and that the remainder had been made within the period from on or about August 2, 1938, to on or about March 30, 1939; and charged that the article was adulterated in violation of the Food and Drugs Act. The article was variously labeled in part: "Seafresh Quick Frozen Fillets"; "Skinless Fillets Cello"; "Ocean Perch Fillets"; "Stk. Dressed Whiting"; "Nordic Hadd. Fillets"; "Large Hadd. Fillets"; "40 Fathom Brand"; "Cold Seal Fillets"; "Layer Pack Blue Ribbon."

The article was alleged to be adulterated in that a portion consisted in whole or in part of a decomposed animal substance; a second portion consisted in whole or in part of a filthy animal substance and the remainder consisted in whole or in part of a filthy and decomposed animal substance.

Between April 5 and May 8, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30550. Adulteration and misbranding of cold-pack cherries. U. S. v. 523 Cans and 767 Cans of Cold-Pack Cherries. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40921. Sample Nos. 57140-C, 57141-C.)

This product was labeled to indicate that it was cold-packed frozen fruit containing 4 parts of fruit and 1 part of dry sugar, namely, 80 percent fruit and 20 percent dry sugar. It consisted, however, of a mixture of sugar, water, and cherries, containing less than 80 percent of cherries.

On November 26, 1937, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,290 cans of cold-pack cher-

ries at Newark, N. J.; alleging that the article had been shipped on or about July 15 and July 20, 1937, by Case Packing Co., Sodus, N. Y., from Germantown, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Zeroseald * * * Cherries Packed with Liquid Sugar 4+1."

It was alleged to be adulterated in that water had been mixed and packed with it so as to reduce and lower its quality and strength; and in that a mixture of sugar, water, and cherries which contained less than 80 percent of cherries, had been substituted in whole or in part for cold-pack cherries, which it purported to be because of the statement "4+1" on the label.

It was alleged to be misbranded in that the statement "Cherries Packed with Liquid Sugar 4+1" was false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained less than 80 percent of cherries; and in that the term "Liquid Sugar" on the label was misleading and tended to deceive and mislead the purchaser, since it implied that the article contained sugar in liquid form.

On February 16, 1939, Flint & Fulton, Inc., Asbury Park, N. J., claimant, having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled to comply with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

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General Seafoods Corporation	30549	Westergaard, Berg-Johnson Co.	30471
Genoa Fisheries, Inc.	30467	Lobster (rock). See Fish and shellfish.	
Gloucester Fresh Fish Co.	30468	Meat and bone scrap. See Feed.	
Gorton-Pew Fisheries Co., Ltd.	30525	Molasses:	
Great Atlantic & Pacific Tea Co.	30431	Imperial Coffee Co.	30486
Kroger Grocery & Baking Co.	30495	Nuts—	
Mid-Central Fish Co.	30444	almonds:	
O'Hara, F. J., & Son, Inc.	30484	California Almond Growers Exchange	30488
Slade Gorton & Co.	30469	Fisher, Herman C. Co.	30485
pollack, frozen:		Rosenberg Bros. & Co.	30450
Atlantic Coast Fisheries Corporation	30452	shelled:	
Gorton-Pew Fisheries Co., Ltd.	30459	Pfeiffer, J. M. Co.	30475
New England Fillet Co.	30446	Brazil:	
Union Premier Stores, Inc.	30459	Higgins, Wm. A., & Co.	30417, 30454
redfish, frozen:		cashew nuts:	
Booth Fisheries Corporation	30547	Higgins, W. A., & Co.	30506
O'Hara, F. J., & Son, Inc.	30484	pecan meats:	
salmon, canned:		Dasher, Howard	30510
Gosse, F. A., Co.	30415	walnut meats:	
Kimball, M. I., & Co.	30527	Morris, Tom	30418
McBride, Wm. W., Co.	30527	black meats:	
Taylor Edwards Warehouse & Transfer Co.	30527	Myers Walnut Co.	30480
frozen:		Oats, rolled:	
Alaska Coast Fisheries	30500	Quaker Oats Co.	30433
Hannula, John Jr., Fish Co.	30515	Oil, olive:	
Northland Transportation Co.	30500	Accardi, A., Co.	30425
smoked:		Accardi, Antonio	30425
Los Angeles Smoking & Curing Co.	30489	West Tea & Coffee Co., Inc.	30447
tullibees:		Orange juice. See Beverages and beverage bases.	
Selvog, S. A.	30544	Oranges:	
Selvog Fish Co.	30544	Western Fruit Growers, Inc.	30503
Viking Fish Co.	30540	Oysters. See Fish and shellfish.	
tuna flakes, canned:		Pecans. See Nuts.	
Halfhill Co., Ltd.	30528	Perch fillets. See Fish and shellfish, perch, frozen.	
Sweet Life Food Distributors	30528	Pollack fillets. See Fish and shellfish, pollack, frozen.	
West Coast Packing Corporation	30528	Potato ferment:	
whiting, frozen:		Falk Products Co.	30472, 30539
American Fish Co.	30457	Potatoes:	
Booth Fisheries Corporation	30547	Bacon Bros., Inc.	30449
General Seafoods Corporation	30549	Poultry:	
Gorton-Pew Fisheries Co., Ltd.	30525	Tracy Produce Co., Inc.	30463
Mid-Central Fish Co.	30444	Preserves, jams, and jellies:	
Flavors—		preserves and jams:	
vanilla:		Demartini, L., Co.	30420
Safe Owl Products, Inc.	30491	Fresh Grown Preserve Corporation	30405
Flounder fillets. See Fish and shellfish, flounder, frozen.		Kerr Conserving Co.	30526
Flour—		Milrey Packing Co.	30405
Aetna Mills	30483	Schwabacher Bros. & Co.	30420
Ballard & Ballard Co., Inc.	30524	Prunes:	
Bay State Milling Co.	30413	Rosenberg Bros. & Co.	30438
Buhler Mill & Elevator Co.	30482	Raspberry fruit extract. See Beverages and beverage bases, raspberry flavor.	
Burley Flour Mills	30414		
Crowther Bros. Milling Co.	30531		
Fisher Flouring Mills Co.	30535		
Larabee Flour Mills	30483		
Monroe Flour Co.	30514		
O. K. Mills	30524		

¹ Contains instructions to the jury.

Redfish fillets. <i>See</i> Fish and shell-fish, frozen.		
Salmon. <i>See</i> Fish and shellfish. N. J. No.		
Shorts and screenings. <i>See</i> Feed, wheat.		
Spinach, canned:		
Larsen Co----- 30496		
Red & White Corporation--- 30496		
Strawberries, frozen:		
Allen Fruit Co----- 30432, 30545		
Tomato catsup:		
Curtice Bros. Co----- 30529		
Fine Foods, Inc----- 30458		
Orange County Canners, Inc-- 30522		
Val Vita Food Products, Inc 30458, 30522		
juice cocktail. <i>See</i> Beverages and beverage bases.		
Tomato—Continued. N. J. No.		
paste:		
Flotill Products, Inc----- 30448		
Moosalina Products Corpora-tion ----- 30448		
puree:		
Beech-Nut Packing Co----- 30532		
Drago, S. J----- 30520		
Gervas Canning Co., Inc----- 30520		
Tullibees. <i>See</i> Fish and shellfish.		
Tuna. <i>See</i> Fish and shellfish.		
Turnip greens:		
Thrift Packing Co----- 30422		
Vanilla extract. <i>See</i> Flavors.		
Walnut meats. <i>See</i> Nuts.		
Whiting fillets. <i>See</i> Fish and shell-fish, whiting, frozen.		





United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

RECEIVED

FEBR 19 OCT 7 1939

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

30551-30600

U.S. Department of Agriculture

[Approved by the Acting Secretary of Agriculture, Washington, D. C., July 11, 1939]

30551. Misbranding of sweet pickles. U. S. v. 40 Cases of Sweet Pickles. Default decree of condemnation and destruction. (F. & D. No. 39563. Sample No. 18856-C.)

This product was short of the declared weight, and its label failed to declare the presence of sodium benzoate.

On May 5, 1937, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of sweet pickles at Litchfield, Ill.; alleging that the article had been shipped in interstate commerce on or about March 23, 1937, from St. Louis, Mo., by Berger Foods Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Tast-good Brand Sweet Pickles Contents 13 Ozs. Distributed By Empire Distributing Co. St. Louis, Mo."

The article was alleged to be misbranded in that its labeling tended to deceive or mislead the purchaser since it contained sodium benzoate which was not declared, and since it was short of the declared weight. It was alleged to be misbranded further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On May 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30552. Misbranding of canned tomatoes. U. S. v. 168 Cases of Canned Tomatoes. Consent decree of condemnation. Product released under bond to be relabeled. (F. & D. No. 40954. Sample No. 42444-C.)

This product was substandard since it did not consist of 50 percent of whole or large pieces, and it was not labeled to indicate that it was substandard.

On November 30, 1937, the United States attorney for the Eastern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 168 cases of canned tomatoes at McKinney, Tex.; alleging that the article had been shipped in interstate commerce on or about September 25, 1937, by Putman Canning Co. from Avoca, Ark.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Putman Brand Hand Packed Tomatoes * * * Packed in Arkansas Ozarks."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the fruit did not consist of whole or large pieces, less than 50 percent of the total contents of containers were retained after draining, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On March 14, 1938, W. T. Putman Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be relabeled in compliance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30553. Adulteration and misbranding of flour. U. S. v. 108 Sacks of Flour. Default decree of condemnation and destruction. (F. & D. No. 43807. Sample Nos. 37768-D, 38062-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be insect-infested. It was bleached flour but failed to bear a conspicuous statement of that fact.

On September 9, 1938, the United States attorney for the Western District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 108 sacks of flour at Lafayette, La.; alleging that the article had been shipped on or about August 12, 1938, by G. B. R. Smith Milling Co. from Sherman, Tex.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Reliance Brand * * * Packed for Consolidated Companies, Inc."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable and animal substance.

It was alleged to be misbranded in that the statement "Flour," borne on the sacks, was false and misleading and tended to deceive and mislead the purchaser when applied to bleached flour. It was alleged to be misbranded further in that it was labeled so as to deceive and mislead the purchaser since it failed to bear a conspicuous statement of bleaching.

On May 16, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30554. Adulteration of butter. U. S. v. 15 Cubes of Butter. Decree of condemnation. Product released under bond to be reworked. (F. & D. No. 45339. Sample Nos. 43320-D, 56141-D.)

A portion of this product contained less than 80 percent of milk fat.

On April 29, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 cubes of butter at Oakland, Calif.; alleging that the article had been shipped in interstate commerce on or about April 21, 1939, by Bandon Cheese & Produce Co. and by Safeway Stores from Bandon, Oreg.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On May 19, 1939, the Lucerne Cream & Butter Co., Oakland, Calif., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that such cubes as were low in milk fat be brought up to the legal standard.

M. L. WILSON, *Acting Secretary of Agriculture.*

30555. Adulteration of frozen fillets. U. S. v. 99 Boxes of Perch or Redfish Fillets. Default decree of condemnation and destruction. (F. & D. No. 45234. Sample No. 66105-D.)

This product contained parasitic worms.

On May 1, 1939, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 boxes of fish fillets at Charlotte, N. C.; alleging that the article had been shipped in interstate commerce on or about April 8, 1939, by Commonwealth Ice & Cold Storage Co. for O'Donnell-Usen Fisheries, from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 24, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30556. Adulteration of butter. U. S. v. 20 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 45284. Sample No. 54156-D.)

This product contained less than 80 percent of milk fat.

On April 15, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the dis-

trict court a libel praying seizure and condemnation of 20 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 25, 1938, by Boone Dairy, Inc., from Boone, Iowa; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by act of March 4, 1923.

On April 29, 1939, Boone Dairy, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

M. L. WILSON, *Acting Secretary of Agriculture.*

30557. Adulteration of herring roe. U. S. v. Four Boxes of Herring Roe. Default decree of condemnation and destruction. (F. & D. No. 45249. Sample No. 35142-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was in part decomposed; and it also contained fish scales and pieces of intestine.

On April 29, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of four boxes of fish roe at Baltimore, Md.; alleging that the article had been shipped on or about April 21 and 22, 1939, by G. W. Haydon from Peary, Va.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance.

On May 23, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30558. Adulteration and misbranding of wheat gray shorts and screenings. U. S. v. Dobry Flour Mills, Inc. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42709. Sample No. 3916-D.)

This product was represented to be wheat gray shorts and screenings with no more than 6 percent of crude fiber; whereas it consisted in whole or in part of wheat brown shorts and screenings, and contained more than 6 percent of crude fiber.

On May 8, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Dobry Flour Mills, Inc., Yukon, Okla., alleging shipment by said defendant in violation of the Food and Drugs Act on or about November 22, 1938, from the State of Oklahoma into the State of Texas, of a quantity of feed that was adulterated and misbranded.

The article was alleged to be adulterated in that wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings, which it purported to be.

Misbranding was alleged in that the statements, "Wheat Gray Shorts and Screenings * * * Crude Fiber not more than 6.00%," borne on the tag, were false and misleading and were borne on the said tag so as to deceive and mislead the purchaser, since the article did not consist of wheat gray shorts and screenings but did consist in whole or in part of wheat brown shorts and screenings, and it also contained more than 6 percent, i. e., not less than 7.01 percent, of crude fiber.

On May 31, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

30559. Adulteration and misbranding of butter. U. S. v. Joe S. McIlhaney (McIlhaney Creamery Co.). Plea of guilty. Fine, \$50. (F. & D. No. 42647. Sample Nos. 21807-D, 27272-D.)

This product contained less than 80 percent of milk fat.

On February 8, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Joe S. McIlhaney, trading as McIlhaney Creamery Co., Lubbock, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 25 and August 21, 1938, from the

State of Texas into the States of New Mexico and Illinois, of quantities of butter which was adulterated and a part of which was misbranded. One shipment was labeled in part: "McIlhaney's Creamery Butter."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat.

Misbranding was alleged as to the New Mexico shipment in that the label statement "Butter" was false and misleading, since it represented that the article was butter, i.e., a product which should contain not less than 80 percent by weight of milk fat; whereas the article contained less than 80 percent by weight of milk fat.

On May 15, 1939, a plea of guilty having been entered by the defendant, the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30560. Adulteration of tullibees. U. S. v. Leonard Jenson. Plea of guilty. Fine, \$50. (F. & D. No. 42660. Sample No. 21955-D.)

This product was infested with parasitic worms.

On May 23, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Leonard Jenson, Baudette, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act on or about September 13, 1938, from the State of Minnesota into the State of Illinois of a quantity of tullibees which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance, i. e., tullibees which were infested with parasites.

On May 24, 1939, a plea of guilty having been entered by the defendant, the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30561. Adulteration of frozen perch fillets. U. S. v. 135 Cartons of Perch Fillets. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45005. Sample No. 54632-D.)

This product had been shipped in interstate commerce and remained in the original packages. At the time of examination samples were found to be parasite-infested and decomposed.

On March 15, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 135 cartons of perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about February 28, 1939, from Boston, Mass., by Frosted Foods Sales Corporation; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Birdseye Frosted Foods Fillets of Red Perch."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 24, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

M. L. WILSON, *Acting Secretary of Agriculture.*

30562. Misbranding of beef and bone scrap. U. S. v. Consolidated By-Product Co. Plea of nolo contendere. Fine, \$100. (F. & D. No. 42658. Sample Nos. 4863-D, 4864-D.)

This product contained a smaller proportion of protein than that declared on the label.

On February 20, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Consolidated By-Product Co., a corporation, Philadelphia, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act on or about August 23 and September 9, 1938, from the State of Pennsylvania into the State of Maryland, of quantities of beef and bone scrap which was misbranded.

The article was alleged to be misbranded in that the label statement "Protein 50%" was false and misleading, since the article contained less than 50 percent of protein, namely, 46.16 percent in one shipment and 45.81 percent in the other shipment.

On June 7, 1939, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

30563. Adulteration of flour. U. S. v. 41 Bags of Flour. Consent decree of condemnation. Product released under bond for disposal as hog feed.
 (F. & D. No. 44345. Sample No. 43338-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of the examination it was found to be insect-infested.

On November 14, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 bags of flour at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about August 14, 1937, from Holmes Spur, Wash., by R. P. Tjossem & Son, Ellensburg, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "High-Line Brand Pastry and Cake Flour * * * Bleached."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On June 2, 1939, A. Hilebrandt having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be converted into hog feed under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30564. Adulteration of pollack fillets. U. S. v. 334 Boxes of Frozen Pollack Fillets. Consent decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45189. Sample No. 54696-D.)

This product had been shipped in interstate commerce and remained in the original packages. At the time of the examination it was found to be in part decomposed.

On April 15, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 334 boxes of frozen pollack fillets at Chicago, Ill.; alleging that the article had been shipped on or about April 3, 1939, from Gloucester, Mass., by Cape Ann Cold Storage Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On or about May 5, 1939, the consignee having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered converted into fertilizer.

M. L. WILSON, *Acting Secretary of Agriculture.*

30565. Adulteration of dried cherries. U. S. v. 284 Cases and 225 Cases of Dried Cherries. Consent decrees of condemnation and destruction. (F. & D. Nos. 45127, 45161. Sample Nos. 37145-D, 37146-D.)

This product had been shipped in interstate commerce and remained in the original packages. At the time of the examination it was found to be in part moldy.

On April 1 and 8, 1939, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 500 cases of dried cherries at New York, N. Y.; alleging that the article had been shipped on or about March 9, 1939, from San Francisco, Calif., by Guggenheim & Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Horseshoe Brand Cherries" or "Palo Alto Brand California Dried Cherries."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On June 3, 1939, the claimant having admitted the allegations of the libel and having consented to the entry of decrees, judgments of condemnation were entered and it was ordered that the product be destroyed and that costs be taxed against the claimant.

M. L. WILSON, *Acting Secretary of Agriculture.*

30566. Adulteration of buckwheat and wheat flour. U. S. v. 57 Cases of Buckwheat and Wheat Flour. Default decree of condemnation and destruction. (F. & D. No. 45246. Sample No. 59749-D.)

Samples of this flour were found to contain sand.

On May 3, 1939, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court

a libel praying seizure and condemnation of 57 cases, each containing a number of packages of buckwheat and wheat flour, at Boston, Mass.; alleging that the article had been shipped in interstate commerce on or about January 13 and March 21, 1939, by the France Milling Co. from Cobleskill, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Swansdown Self Rising Buckwheat and Wheat Flour * * * Packed Expressly For S. S. Pierce Co. Boston."

Adulteration was alleged in that buckwheat and wheat flour containing sand had been mixed with the article so as to reduce or lower its quality and had been substituted wholly or in part for the said article.

On June 5, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30567. Adulteration of tomato paste. U. S. v. 99 Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. No. 45202. Sample No. 44756-D.)

This product contained filth resulting from insect infestation.

On April 17, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 99 cases of tomato paste at Jersey City, N. J.; alleging that the article had been shipped in interstate commerce on or about January 15, 1939, from Los Angeles, Calif., by Val Vita Food Products, Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Val Vita Brand Tomato Paste."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On May 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30568. Adulteration and misbranding of egg noodles. U. S. v. 89 Cases of Egg Noodles. Default decree of condemnation and destruction. (F. & D. No. 44691. Sample Nos. 12310-D, 13222-D, 13223-D, 13224-D.)

This product contained added carotene, a coloring matter.

On January 20, 1939, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 89 cases of egg noodles at Schenectady, N. Y.; alleging that the article had been shipped within the period from on or about April 27, 1938, to on or about May 4, 1938, by Pfaffman Co. from Cleveland, Ohio; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Pfaffman's Chicken Dinner * * * All Eggs No Coloring Pure Egg Noodles."

It was alleged to be adulterated in that a substance containing added coloring, carotene, had been substituted for egg noodles, which it purported to be.

The article was alleged to be misbranded in that the statements, "All Eggs No Coloring * * * Pure Egg Noodles," were false and misleading and tended to deceive and mislead the purchaser when applied to a mixture of egg noodles and carotene, an added coloring matter.

On March 31, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30569. Adulteration of crab meat. U. S. v. Five Cans of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 45271. Sample No. 43559-D.)

This product had been shipped in interstate commerce and remained unsold in the original packages. At the time of the examination it was found to be in part decomposed.

On May 4, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five cans of crab meat at Oakland, Calif.; alleging that the article had been shipped in interstate commerce on or about April 22, 1939, from Cushman, Oreg., by Waldport Sea Food Co., Inc.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On May 31, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30570. Adulteration of perch fillets. U. S. v. 15 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45299. Sample No. 66137-D.)

This product was infested with parasitic worms.

On May 10, 1939, the United States attorney for the Northern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 boxes of perch fillets at Atlanta, Ga.; alleging that the article had been shipped in interstate commerce on or about April 20, 1939, from Boston, Mass., by Genoa Fisheries, Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Perch fillets Capitol."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30571. Adulteration of tullibees. U. S. v. Five Boxes of Tullibees. Consent decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45235. Sample No. 54270-D.)

This product was infested with parasitic worms.

On April 11, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five boxes of tullibees at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about April 3, 1939, by F. Ringling from Warroad, Minn.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance; and in that it was a portion of an animal unfit for food.

On April 21, 1939, the claimant having consented to entry of a decree, judgment of condemnation was entered and it was ordered that the product be converted into fertilizer.

M. L. WILSON, *Acting Secretary of Agriculture.*

30572. Adulteration of maple sirup. U. S. v. 50 Drums of Maple Sirup. Consent decree of condemnation. Product ordered released under bond to be deleaded. (F. & D. No. 45333. Sample No. 60008-D.)

This product contained lead.

On May 15, 1939, the United States attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 drums of maple sirup at St. Albans, Vt.; alleging that the article had been shipped in interstate commerce on or about May 3, 1939, from Harrisville, N. Y., by American Maple Products Corporation; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On May 24, 1939, American Maple Products Corporation having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be deleaded and all injurious ingredients removed under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30573. Adulteration and misbranding of olive oil. U. S. v. Caruso, Inc., and Dominick Antoneilli. Pleas of guilty. Corporation fine of \$50 suspended; \$25 of individual \$50 fine suspended. (F. & D. No. 40818. Sample No. 42318-C.)

This product was represented to be pure imported olive oil, but consisted chiefly of corn or other edible oils, with only a small amount of olive oil present.

On May 23, 1938, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the police court

an information against Caruso, Inc., trading at Washington, D. C., and Dominic Antonelli, secretary-treasurer of said corporation, alleging sale in the District of Columbia by said defendants in violation of the Food and Drugs Act on or about June 18, 1937, of quantities of so-called olive oil which was adulterated and misbranded.

The article was alleged to be adulterated in that an edible oil other than olive oil had been added to and mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength; and in that such other edible oil had been substituted in part for olive oil, which the article purported to be.

Misbranding was alleged in that the article was offered for sale under the distinctive name of, and was guaranteed to be, pure olive oil; whereas it was not pure olive oil but consisted chiefly of other edible oil. Misbranding was alleged further in that the following statements and designs appearing on the label were false and misleading and were borne on the label so as to deceive and mislead the purchaser since they represented that the article was pure olive oil produced in, and imported from, a foreign country, Italy; whereas it was not as represented but consisted in part of other edible oil: "Olio di Oliva Vergine [design of olive branch and olives] Lucca * * * Prodotto Italiano Olio d'Oliva"; "This Olive Oil is Guaranteed Pure Olio d'Oliva"; "Questo Olio E Garantito di Puro Oliva Olio d'Oliva [design of olive tree]"; "Imported from Italy."

On October 7, 1938, pleas of guilty having been entered on behalf of both defendants, the court imposed fines of \$50 against the corporation and \$50 against Antonelli. All fines were suspended and personal recognizance taken, except as to \$25 of the fine against Antonelli.

M. L. WILSON, *Acting Secretary of Agriculture.*

30574. Misbranding of canned mackerel. U. S. v. Coast Fishing Co. Plea of guilty. Fine, \$50. (F. & D. No. 42670. Sample Nos. 19189-D, 20303-D, 20309-D, 20310-D, 20324-D, 20325-D.)

This product was short of the declared weight.

On March 21, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Coast Fishing Co., a corporation, Wilmington, Calif., alleging shipment by said corporation in violation of the Food and Drugs Act as amended, within the period from on or about August 29, 1938, to on or about September 16, 1938, from the State of California into the States of Washington, Florida, and Pennsylvania, of quantities of canned mackerel which was misbranded. The article was labeled in part: (Can) "King Solomon Brand Fancy Mackerel Contents 1 lb."

It was alleged to be misbranded in that the statement "Contents 1 lb." borne on the cans, was false and misleading and was borne on the said cans so as to deceive and mislead the purchaser, since the cans contained less than the amount stated. Misbranding was alleged further in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On April 10, 1939, a plea of guilty was entered on behalf of the defendant and on April 12, 1939, the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30575. Adulteration and misbranding of butter. U. S. v. 54 Cubes of Butter (and 3 similar seizure actions). Decrees of condemnation. Product ordered released under bond. (F. & D. Nos. 45281, 45433, 45460, 45501. Sample Nos. 43309-D, 43788-D, 56060-D, 56145-D, 56148-D, 56154-D.)

This product contained less than 80 percent of milk fat.

On April 25, May 13 and 25, and June 6, 1939, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court four libels praying seizure and condemnation of 281 cubes of butter at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about April 11 and 24, and May 16 and 27, 1939, by Midwest Dairies, Inc., from Portales, N. Mex.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

Three of the four shipments were alleged to be misbranded in that the label "Butter" was false and misleading, since the article contained less than 80 percent of milk fat.

On May 19 and June 8 and 14, 1939, Midwest Dairies, Inc., Portales, N. Mex., and Wilsey Bennett, San Francisco, Calif., having appeared as claimants for respective portions of the article, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30576. Adulteration of frozen eggs. U. S. v. 155 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond for segregation and destruction of unfit portion. (F. & D. No. 45255. Sample No. 62412-D.)

Samples of this product were found to be decomposed and to contain miscellaneous filth, bits of meat, and excreta.

On May 10, 1939, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 155 cans of frozen whole eggs at New Orleans, La.; alleging that the article had been shipped in interstate commerce on or about April 18, 1939, from Cuero, Tex., by Cudahy Packing Co. of Louisiana, Ltd., of New Orleans, La.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Cudahy's Frozen Sunlight Eggs."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy, decomposed, and putrid animal substance.

On May 27, 1939, the Cudahy Packing Co. of La., Ltd., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the good be segregated from the bad under supervision of this Department, and that the bad be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30577. Adulteration of butter. U. S. v. 13 Cubes of Butter. Consent decree of condemnation. Product released under bond. (F. & D. No. 45343. Sample Nos. 56142-D, 56143-D.)

This product contained less than 80 percent of milk fat.

On May 3, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 cubes of butter at Oakland, Calif.; alleging that the article had been shipped in interstate commerce on or about April 24, 1939, from Mount Angel, Oreg., by Mount Angel Cooperative Creamery; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On May 19, 1939, the Lucerne Cream & Butter Co., Oakland, Calif., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it should not be disposed of until brought into compliance with the law.

M. L. WILSON, *Acting Secretary of Agriculture.*

30578. Adulteration of frozen shrimp. U. S. v. 193 Bags of Frozen Shrimp. Default decree of condemnation and destruction. (F. & D. No. 45275. Sample No. 60723-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On May 5, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 193 bags of frozen shrimp at New York, N. Y.; alleging that the article had been shipped on or about September 10, 14, and 15, 1938, by the Cartaret Fish Co., from Beaufort, N. C.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On June 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30579. Misbranding of butter. U. S. v. Leo J. Jacobsen (The Roberts Creamery). Plea of guilty. Fine, \$25 and costs. (F. & D. No. 42556. Sample Nos. 19448-D, 19449-D.)

This product was short of the declared weight.

On September 28, 1938, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Leo J. Jacobsen, trading as the Roberts Creamery, Roberts, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act on or about May 5, 1938, from the State of Wisconsin into the State of Minnesota, of quantities of butter which was misbranded. The article was labeled in part: (One shipment) "Fancy Country Roll Butter"; (another shipment) "Johnson's Full Cream Butter * * * Packed By Roberts Creamery."

It was alleged to be misbranded in that the statement "One Pound Net," borne on the wrappers of a portion and on the cartons of the remainder, was false and misleading and was borne on said wrappers and cartons so as to deceive and mislead the purchaser, since they contained less than 1 pound net of the article. Misbranding was alleged further in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On November 15, 1938, the defendant having entered a plea of guilty, the court imposed a fine of \$25 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

30580. Adulteration of walnut meats. U. S. v. Abraham Feld (American Food Exchange). Tried to a jury. Judgment of guilty. Fine, \$200. (F. & D. No. 42512. Sample Nos. 57726-C, 57727-C, 57728-C, 57729-C.)

This product was in large part wormy, rancid, and decomposed.

On February 10, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Abraham Feld, trading as American Food Exchange, New York, N. Y., alleging shipment by said defendant in violation of the Food and Drugs Act on or about December 8, 1937, from the State of New York into the State of New Jersey, of a quantity of walnut halves and walnut pieces which were adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance, namely, walnuts which were wormy, rancid, and decomposed.

On March 14, 1939, the defendant having pleaded not guilty, the case was tried to a jury. The jury having failed to reach a verdict, the defendant was retried on May 2, 1939, a verdict of guilty was returned, and the court imposed a fine of \$200.

M. L. WILSON, *Acting Secretary of Agriculture.*

30581. Adulteration of canned oysters. U. S. v. 98 Cases of Canned Oysters. Default decree of condemnation and destruction. (F. & D. No. 45300. Sample No. 51537-D.)

This product contained sharp pieces of shell that were small enough to be swallowed and were capable of inflicting injury.

On May 10, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 98 cases of canned oysters at Allentown, Pa.; alleging that the article had been shipped in interstate commerce on or about March 30, 1939, by Indian Ridge Canning Co., Inc., from Houma, La.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "St. Martin's Hand Opened Oysters Select * * * Distributed by St. Martin Oyster Co."

It was alleged to be adulterated in that shell fragments had been mixed and packed with it so as to reduce or lower its quality; in that an article containing shell fragments had been substituted in part for oysters; and in that it contained an added deleterious ingredient, oyster shell fragments, which might have rendered it injurious to health.

On May 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30552. Adulteration of Limburger cheese. U. S. v. 45 Cases of Limburger Cheese. Tried to the court. Judgment for the Government. Decree of condemnation and destruction. (F. & D. No. 44369. Sample No. 21558-D.)

This product contained insect fragments.

On November 17, 1938, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 45 cases of Limburger cheese at Detroit, Mich.; alleging that the article had been shipped on or about August 8, 1938, by Miller-Richardson Co. from Rome, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Mohawk Valley Brand Whole Milk Naturally Ripened Genuine New York State Limburger."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 7, 1939, the Kraft-Phenix Cheese Corporation, Detroit, Mich., claimant, filed a motion for an order directing discovery of documents showing the results of tests and inspection of samples, which motion was granted by the court. On April 18, 1939, a jury having been waived, the case was tried in the court and the following decision was handed down:

O'BRIEN, *District Judge:* "I think the Government has established its right to an order for the condemnation and confiscation of the cheese seized. I want to remark, of course, that the Kraft-Phenix Cheese Co. didn't make this cheese. They were the unfortunate holders of it when it got up to Detroit. It was made by some corporation down in New York, but in the judgment of the court the Government has established by substantial evidence that the cheese in question was in such a condition as to be in violation of the code involved in this libel. Beyond any question the rind or the skin of the cheese was impregnated with animal matter, flies, hair, and other substances of animal origin. In some instances of the analysis, the interior of the cheese was so impregnated, but I do not think that it would interfere with a judgment in this case if the interior had not been affected, although there is proof that it is, because a food product such as this at least should have such reasonable care and sanitary precaution in its manufacturing and in its marketing as to make it free from such noisome articles and objects and substances as appear to be in this cheese. The consumer has a right to expect that. Whether such cheese would be injurious to health or not is not of moment, or the court doesn't know, but at least the ultimate consumer in the homes and in the hotels and restaurants has a right to assume that the product that he eats or orders is free from such conditions. Otherwise, besides the annoyance that might ordinarily accompany the consumption of Limburger cheese, they would also have to provide themselves with microscopes or magnifying glasses. In fact, in the future the restaurants might advertise 'With music and magnifying glasses.' So, under the conditions of this testimony, I have no alternative but to grant to the Government the order it seeks for confiscation and condemnation."

On April 25, 1939, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30553. Adulteration and misbranding of wheat gray shorts and screenings. U. S. v. Canadian Mill & Elevator Co. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42710. Sample No. 3917-D.)

Wheat brown shorts and screenings had been substituted in whole or in part for this product. It also contained more crude fiber than was declared on the tag.

On May 15, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Canadian Mill & Elevator Co., El Reno, Okla., alleging shipment by said defendant in violation of the Food and Drugs Act on or about November 26, 1938, from the State of Oklahoma into the State of Texas of a quantity of wheat gray shorts and screenings that were adulterated and misbranded.

The article was alleged to be adulterated in that wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings, which it purported to be.

It was alleged to be misbranded in that the statements, "Wheat Gray Shorts and Screenings" and "Crude Fiber (not more than) 6.00%," borne on the tags, were false and misleading, and were borne on the tags so as to deceive and mislead the purchaser, since it consisted of wheat brown shorts and screenings, and contained more than 6.00 percent, to wit, not less than 7.34 percent of crude fiber.

On May 25, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$50 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

30584. Adulteration and misbranding of self-rising buckwheat, wheat, and corn flour. U. S. v. 28 Cartons of ASCO Brand Self Rising Buckwheat, Wheat, & Corn Flour. Default decree of condemnation and destruction. (F. & D. No. 45105. Sample No. 34453-D.)

This product contained sand, and it was also short of the declared weight.

On March 28, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cartons of buckwheat, wheat, and corn flour at Baltimore, Md.; alleging that the article had been shipped in interstate commerce on or about January 26, 1939, by France Milling Co. from Cobleskill, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Distributed by American Stores Co. Philadelphia, Pa."

It was alleged to be adulterated in that buckwheat flour containing sand had been mixed and packed with it so as to reduce or lower its quality, and had been substituted in whole or in part for the article.

It was alleged to be misbranded in that the statement "Net Weight 1 lb. 4 Oz.," borne on the package, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On April 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30585. Misbranding of butter. U. S. v. Western Produce Co., Inc. (Lubbock Poultry & Egg Co.). Plea of guilty. Fine, \$100 and costs. (F. & D. No. 42700. Sample Nos. 27276-D, 30629-D, 30631-D, 30640-D.)

This product was short of the declared weight.

On April 20, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Western Produce Co., Inc., trading as the Lubbock Poultry & Egg Co., Lubbock, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, within the period from on or about July 30 to on or about September 8, 1938, from the State of Texas into the State of New Mexico, of quantities of butter which was misbranded. It was labeled in part: "Finest Creamery Butter * * * Put up for Safeway Stores, Incorporated"; or "Clear Brook Creamery Butter Distributed by Wilson & Co."

The article was alleged to be misbranded in that the statement borne on the cartons, "Net Weight One Pound" or "Net Weight 1 Pound," was false and misleading and tended to deceive and mislead the purchaser since the cartons contained less than the amount stated. Misbranding was alleged further in that it was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the packages.

On May 15, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$100 and costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

30586. Adulteration and misbranding of butter. U. S. v. 28 Cases of Butter. Default decree of condemnation and destruction. (F. & D. No. 45153. Sample No. 45247-D.)

This product contained filth and was short weight.

On or about March 20, 1939, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 28 cases of butter at Jacksonville, Fla.; alleging that the article had been shipped in interstate commerce on or about March 13, 1939, by Jefferson Creamery Co. from Americus, Ga.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Carton) "Land O' Sunshine Creamery Butter. Net weight 1 Pound Packed for Winn & Lovett Grocery Co., Jacksonville, Florida."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed animal substance.

It was alleged to be misbranded in that the statement "Net Weight 1 Pound," borne on the carton, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight; and in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages, since the quantity stated was not correct.

On April 25, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30587. Adulteration of dried peaches and dried apricots. U. S. v. 499 Cases of Dried Peaches and 999 Cases of Dried Apricots. Consent decree of condemnation. Products released under bond for segregation and appropriate disposal of unfit portions. (F. & D. Nos. 45195, 45196. Sample Nos. 37147-D, 37148-D.)

These products had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination they were in part moldy, dirty, and insect-infested.

On April 14, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 499 cases of dried peaches and 999 cases of dried apricots at New York, N. Y.; alleging that the articles had been shipped on or about March 21, 1939, from San Francisco, Calif., by Walter M. Field & Co.; and charging adulteration in violation of the Food and Drugs Act.

The articles were alleged to be adulterated in that they consisted in whole or in part of filthy and decomposed vegetable substances.

On May 16, 1939, Joseph Marks, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the products were ordered released under bond conditioned that the good portion might be salvaged by sorting if practicable. The decree provided further that the unfit portion, or the entire lot, if sorting was unsuccessful, be destroyed or disposed of for hog feed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30588. Adulteration of lobster tails. U. S. v. 734 Boxes of Lobster. Default decree of condemnation and destruction. (F. & D. Nos. 45048 to 45052, inclusive. Sample Nos. 59849-D, 59850-D, 59851-D, 59853-D, 59855-D, 59856-D.)

This product, which had been imported, at the time of examination was found to be in part decomposed.

On March 20, 1939, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 734 boxes of lobster tails at Brooklyn, N. Y.; alleging that the article had been imported from the Hickson Canning Co. Pty., Ltd., Capetown, South Africa, within the period from on or about January 3 to on or about May 5, 1938; and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously in part: "Cape Rock Lobster"; "Excelsior Brand Selected Rock Lobster Tails"; and "Specially Selected Cape Rock Lobster Tails."

Adulteration was alleged in that the article consisted in whole or in part of a decomposed animal substance, i. e., lobster tails.

On May 1, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30589. Adulteration and misbranding of butter. U. S. v. 23 Tubs of Butter (and 1 other seizure action against same product). Consent decrees of condemnation. Product released under bond to be reworked. (F. & D. Nos. 45344, 45380. Sample Nos. 60245-D, 60247-D, 60678-D, 60679-D.)

This product contained less than 80 percent of milk fat.

On May 5 and 11, 1939, the United States attorney for the Southern District of New York, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 144 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about April 26, 1939, and on or about May 2, 1939, by Tekamah Cooperative Creamery from Tekamah, Nebr.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by law.

A portion was alleged to be misbranded in that it was labeled "Butter," which was false and misleading since it contained less than 80 percent of milk fat.

On May 18 and 22, 1939, Tekamah Cooperative Creamery Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

M. L. WILSON, *Acting Secretary of Agriculture.*

30590. Adulteration of flour. U. S. v. 320 Bags and 180 Bags of Flour. Consent decree of condemnation. Product released under bond to be converted into stock feed. (F. & D. Nos. 44767, 44768. Sample Nos. 50242-D, 50243-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be infested with insects and mites.

On February 4, 1939, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 500 bags of flour at Greenville, Miss.; alleging that the article had been shipped on or about December 9, 1937, by Fredericktown Milling Co. from Fredericktown, Mo.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "So-Lite * * * Biscuit Flour * * * Madison County Mfg. Co."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 25, 1939, the Mississippi Valley Co., Inc., Greenville, Miss., having appeared as claimant, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be converted into stock feed under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30591. Adulteration of peanut butter. U. S. v. 200 Cases of Peanut Butter (and 1 similar seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 44821, 44870, 44871. Sample Nos. 39818-D, 51095-D, 57013-D.)

This product contained rodent hair and insect fragments.

On February 10 and 18, 1939, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 50 cartons and 500 cases of peanut butter; alleging that the article had been shipped in interstate commerce on or about October 26, November 21, and December 3, 1938, from Norfolk, Va., by Southgate Foods, Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Air Flight * * * Peanut Butter."

Adulteration was alleged in that the article consisted in whole or in part of a filthy vegetable substance.

On May 16, 1939, no claim having been made for the product, judgments of condemnation were entered and it was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30592. Adulteration of butter. U. S. v. 315 Tubs, 300 Tubs, and 285 Tubs of Butter. Consent decrees of condemnation. Product released under bond for reworking or denaturing as required. (F. & D. Nos. 44545, 44547, 44572. Sample Nos. 32917-D, 32950-D, 45608-D.)

Samples taken from this product were found to contain less than 80 percent of milk fat. Others contained added mineral oil. In some samples both conditions were found.

On November 17 and 21 and December 1, 1938, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 900 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about September 17, 24, and 28, 1938, by Deer Creek Creamery Co. from Atchison, Kans.; and charging adulteration in violation of the Food and Drugs act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by act of March 4, 1923; and in that mineral oil had been substituted in part for butterfat.

On December 15 and 22, 1938, the Deer Creek Creamery Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond conditioned that it be reworked or denatured. The butter which was low in milk fat and not otherwise adulterated was reworked so that it contained 80 percent of milk fat, and that containing added mineral oil was denatured and disposed of for technical purposes.

M. L. WILSON, *Acting Secretary of Agriculture.*

30593. Adulteration of frozen fillets. U. S. v. 1,685 Boxes and 1,330 Boxes of Ocean Perch. Default decrees of condemnation and destruction. (F. & D. Nos. 45114, 45219. Sample Nos. 58957-D, 58978-D.)

This product contained parasitic worms.

On March 30 and April 19, 1939, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 3,015 boxes of ocean perch fillets at Cincinnati, Ohio; alleging that the article had been shipped in interstate commerce on or about March 17 and April 6, 1939, by Davis Bros. Fisheries, Inc., from Gloucester, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 23, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30594. Misbranding of canned peas. U. S. v. 100 Cases and 65 Cases of Canned Peas. Consent decrees of condemnation. Product released under bond for relabeling. (F. & D. Nos. 44615, 44616. Sample Nos. 42214-D, 42215-D.)

This product fell below the standard established by this Department since the peas were not immature, and it was not labeled to indicate that it was substandard.

On January 3, 1939, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 165 cases of canned peas at Lebanon, Pa.; alleging that the article had been shipped in interstate commerce on or about July 25, 1938, from Milford, Del., by the Torsch Canning Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Cow-boy Brand June Peas" or "Torsch's Conqueror Brand No. 4 Sieve June Peas."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since the peas were not immature, and its label did not bear a plain and

conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On February 9, 1939, the Torsch Canning Co., claimant, having admitted the allegations of the libels and having consented to the entry of decrees, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30595. Adulteration of maple syrup. U. S. v. 83 Drums and 67 Drums of Maple Sirup. Consent decrees of condemnation. Product released under bond to be deleaded. (F. & D. Nos. 45296, 45338. Sample Nos. 60001-D, 60007-D.)

Analyses of this product showed that it contained lead.

On May 15, 1939, the United States attorney for the District of Vermont, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 150 drums of maple sirup at Burlington, Vt.; alleging that the article had been shipped on or about May 1 and May 3, 1939, by United Maple Products, Ltd., in part from De Kalb Junction, N. Y., and in part from Edwards, N. Y.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it contained an added poisonous or deleterious ingredient, lead, which might have rendered it injurious to health.

On May 24, 1939, United Maple Products, Ltd., claimant, having admitted the allegations of the libels, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be deleaded under the supervision of this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

30596. Adulteration of frozen fish fillets. U. S. v. 200 Boxes of Perch Fillets and 67 Boxes of Whiting. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. Nos. 44839, 44840. Sample Nos. 54320-D, 54321-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination a portion was found to contain parasites and a portion was decomposed.

On February 17, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 267 boxes of fillets at Chicago, Ill.; alleging that the article had been shipped on or about February 2, 1939, by New England Fillet Co. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled, "Perch Fillets" and "H and G Whiting."

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 24, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

M. L. WILSON, *Acting Secretary of Agriculture.*

30597. Adulteration of whitefish roe. U. S. v. Three Cases and One Barrel of Whitefish Roe (and one similar seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 45171, 45172, 45173, 45198. Sample Nos. 60603-D to 60606-D, inclusive.)

This product contained parasitic worms; a portion also contained fish scales and miscellaneous tissue.

On April 11 and 13, 1939, the United States attorneys for the Southern and the Eastern Districts of New York, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of three cases and one barrel of whitefish roe at New York, N. Y., and two boxes and one tub of fish roe at Brooklyn, N. Y., consigned in part by Stanley Johnson from Sturgeon Bay, Wis., and in part by George Dent from Two Rivers, Wis.; alleging that the article had been shipped in interstate commerce within the period from on or about March 13 to on or about April 3, 1939; and charging adulteration in violation of the Food and Drugs Act.

The libels alleged adulteration with respect to a portion in that it consisted in whole or in part of a filthy animal substance, and with respect to the remainder, in that it consisted of portions of an animal unfit for food.

On May 3 and 17, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30598. Adulteration of flour. U. S. v. 35 Bags of Flour (and 2 similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 43604, 43605, 43606. Sample Nos. 37969-D, 37970-D, 37971-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On October 20, 1938, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court three libels praying seizure and condemnation of 483 bags of flour at Hattiesburg, Miss.; alleging that the article had been shipped on or about July 6, 1938, from Chattanooga, Tenn., by Mountain City Mill Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Gold Medal Best Patent Flour."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 11, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

30599. Adulteration of crab meat. U. S. v. Clarence Taylor Slaughter. Plea of guilty. Fine, \$50. (F. & D. No. 38640. Sample Nos. 39922-B, 39925-B, 7931-C, 7933-C, 7934-C.)

This product contained evidence of the presence of filth.

On August 19, 1937, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Clarence Taylor Slaughter, Morattico, Va., alleging shipment by said defendant in violation of the Food and Drugs Act, within the period from on or about July 19 to on or about August 8, 1936, from the State of Virginia into the State of Maryland of quantities of crab meat which was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On April 21, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

30600. Adulteration of apple butter. U. S. v. California Preserving Co. Plea of not guilty. Tried to the court. Judgment of guilty. Fine, \$100. (F. & D. No. 38657. Sample No. 21831-C.)

Samples of this product were found to contain insect and worm fragments, also excessive mold.

On May 4, 1937, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the California Preserving Co., a corporation, Los Angeles, Calif.; alleging shipment by said defendant in violation of the Food and Drugs Act on or about May 16, 1936, from the State of California into the State of Oregon, of a quantity of apple butter which was adulterated. The article was labeled in part: "Catalina Brand Pure Apple Butter."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy and decomposed vegetable substance.

On June 1, 1937, a plea of not guilty was entered on behalf of the defendant; and the case, after a series of continuances, came on for trial before the court without a jury on March 28, 1939. On March 29, 1939, the court adjudged the defendant guilty and handed down the following oral opinion:

JENNEY, Judge: "The court finds itself unable to follow the distinguished judge in the District Court of Washington, Judge Cushman. I feel in the particular cases which he had before him, that there were circumstances which led him to make emphasis on the question of unfitness for human food.

"He says here in the case of *United States v. 2,995 Cases of Canned Salmon*:

"This case defines an adulterated article of food as follows: '*' * * that is, an article of food is adulterated when it consists in whole or in part of filthy, decomposed, or putrid animal substance, making it unfit for human food; '*' * *."

"I can't follow the distinguished jurist under that definition under the expressed provision of the act. I read this act differently, and I am only sorry it has not been interpreted by the circuit court as expressly in these matters.

"The act, section 8 of title 21, subdivision 6, says this, as I have previously indicated:

"* * * if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance—now, there is a comma—

"* * * if it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food * * *."

"The 'unfit for food' is contained within the clause set off by commas, which says: '* * * or any portion of an animal unfit for food * * *,' going on then to discuss whether that animal were a diseased animal, or whether it had died otherwise than by slaughter.

"As indicated in cases which we have before us, this act has a two-fold purpose at least: One, to prevent harmful substances from being sold, and the other, to compel manufacturers and dealers to sell and deliver to the public what they purport to sell and deliver on the outside of their package.

"In the *United States v. 200 Cases* in the Texas case, cited in 1923 in 29 Federal 157, the court said there that in order for an article to be considered adulterated within the meaning of this section, it is not essential that it be unfit for food or deleterious in eating. It is sufficient if the Government establishes that the article sought to be condemned was composed in whole or in part of decomposed, filthy, or putrid animal substance.

"It happens that the act says animal or vegetable substance, but the question there was, as it was in the Washington case, entirely animal matter.

"We have this in 52 Federal 476, which was a New York District Court case cited in 1931:

"The 'test to determine whether imported food is adulterated' is fixed by statute and 'is not whether a food is unwholesome or injurious to health.'

"In the case of *United States v. 10 Cases More or Less* in Iowa, in 1931, 49 Federal 87, we find:

"To prove adulteration, it must be shown that food was damaged or an inferior food product because one or more of its constituents was damaged or inferior, and that it was mixed so that inferiority was concealed."

"There are quite a number of cases. This case that we talked so much about is 133 Cases of Tomato Paste—and in that case, there are a number of significant statements:

"A food may be subject to confiscation on the grounds it consists in whole or in part of a "filthy" animal or vegetable substance, although the food is not injurious to health.

"The apparent presence of worms and their excreta in food designed for human food renders it "filthy" within this section.

"This section was designed to protect the aesthetic tastes and sensibilities of the consuming public.

"A food which consists in whole or in part of a "filthy" animal or vegetable substance is subject to confiscation, although the filth is imperceptible to the consumer.

"A tomato paste which contained about 85 fragments of corn-ear worm in each 200 cubic centimeters was subject to confiscation on the ground that it was "adulterated" within the meaning of provisions of the Food and Drugs Act, which authorized confiscation of a food consisting in whole or in part of a "filthy" animal or vegetable substance, notwithstanding that the tomato paste was not injurious to the consumer's health or that the worm fragments could not be detected by the consumer either by sight or taste."

"I needn't go on with the various cases that have been cited. And there is the case by the Ninth Circuit in 284 Federal 552. There the court was discussing this question of decomposition.

"Decomposition begins where life ends, but that is not the sort of decomposition meant by the statute. The moment life commences, in a sense it begins to fade, and the moment that life ceases, in a sense decomposition begins, and increases by degrees to rottenness, decomposition, and decay."

"And the court there, discussing the question of the failure of the statute to set any standard, says:

"In any event no such standard has been fixed, in the absence of which each case must be determined on its own facts, and when it appears, as in this case, that the product is so far decomposed as to be unfit for food, it comes within the letter and spirit of the law."

"Now, to determine in an individual case what is good and what is not is rather a difficult question. It is a great deal like the porter on the Pullman during prohibition days who was given a bottle of whisky by one of his customers; and the next morning the customer said to him:

"George, how did you like that bottle of whisky?"

"Oh, boss, that was just right."

"What do you mean, just right?"

"Well, if it had been any better, you wouldnt have given it to me, and if it had been any worse, I couldn't have drunk it."

"Well, we are between those two situations here. I think I didn't make myself entirely clear to the Government. We have a product here sold in interstate commerce which, according to the testimony, contained a perceptible quantity of animal substances: Whole worms and mites, pieces of other insects, because the indictment in this case—or the information, rather, as it is an information, was specific in saying that an adulteration consisted in whole or in part of a filthy and a decomposed vegetable substance.

"The court is inclined to consider the animal substance as being at variance from the charge in the information, and the defense of which the defendant might not be prepared to present evidence, but the testimony shows that the excreta of these various small animals and the natural result of the decomposition of their bodies or pieces of bodies had, and would naturally affect and decompose a certain portion of the vegetable substance itself, so that there were two elements of proof here to which the court will give consideration. That, and also the question of the mold in larger quantities than seems reasonable under the circumstances.

"I can't help but feel that Congress had a definite purpose in passing this statute and that it cannot be ignored by the court and should be very carefully respected by those who are engaged in the manufacture of food products. I can't help but feel that in the instance of this particular job lot of manufactured product, that the defendant has not exercised the care for the public that it might have, and that the public had a right to expect. Some of us may like to eat snails, but we don't like to eat snails, thinking that they are some other delicacy with which we are very familiar; neither do we like to eat a lot of decomposed matter, even though it isn't actually harmful, when we think we are buying apple butter.

"The fact that no standard is set by the law is possibly unfortunate. That may be corrected, but I believe testimony of these experts indicates what the possibility is.

"I feel that the evidence shows that the defendant is guilty under the act, as I must interpret it. I am not disposed in this particular case to—being, as I understand it, a first offense—is that not true?"

Mr. NEUKOM. "That is correct, your Honor."

The COURT. "I do not propose to be severe. I feel that this defendant has probably been sufficiently warned now, and there is evidence that this defendant has and can deliver a very good product free from any type of adulteration as that term is defined in the act.

"It may be that the Government officers have done this defendant a very great service in calling the attention of its officers to the fact that they must live up to a proper standard, and this proceeding may be a lesson in disguise.

"As I understand the provisions of the act, on the first offense the maximum fine is \$200. Is that correct?"

Mr. NEUKOM. "That is correct."

The COURT. "And there is no provision for any other penalty?"

Mr. NEUKOM. "No; there is no other provision."

The COURT. "There is no requirement under the law of charging costs against the defendant in a proceeding like this?"

Mr. NEUKOM. "There is no requirement. In many instances, it is, but I have discussed that with Mr. Harvey in the event your Honor has arrived at a conclusion, which you have, and he has stated that he would not insist on that, or at least would not necessarily require it."

The COURT. "Well, I feel that this defendant should suffer some penalty and should be very careful in the future. The Government has had to go to a very

considerable expense in this matter, but I think that the expense is probably justified, and the incurring of that expense is necessary under the interpretation of the act as a whole.

"I shall fine the defendant \$100 and if it is not convenient for them to pay it at once, I might be able to give them a little time."

Mr. DOCKWEILER. "That can be paid at once, your Honor."

The COURT. "Very well. I am disposed to be lenient, but I feel that the defendant should be very careful. I think that this is just exactly the type of thing that this act was intended to cover, and it doesn't have to be something that seems to be indicated in that opinion of the Northern District that it is unfit for food. I believe the act is intended to be much broader than that."

"It will be so ordered."

On May 29, 1939, the court imposed a fine of \$100.

M. L. WILSON, *Acting Secretary of Agriculture.*

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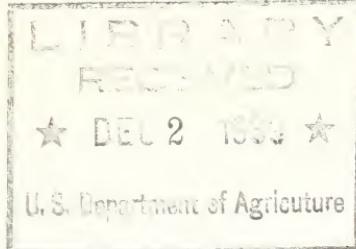
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¹ Contains an opinion of the court.

² Prosecution contested.



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N. J., F. D. 30601-30650

Issued November 1939

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

30601-30650

DRUGS

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 20, 1939]

- 30601. Adulteration and misbranding of Dr. Koch's Sept-O-Cide and Dr. Koch's Cold Tablets and misbranding of Dr. Koch's Stick Salve, Dr. Koch's Inhalo, Dr. Koch's Camph-O-Lin, Dr. Koch's Cough Syrup, Dr. Koch's Vegetable Tea Tablets, Dr. Koch's Dyspepsia Tablets, Dr. Koch's Mentho-Campho, and Dr. Koch's Liver Pills. U. S. v. Koch Products Co. Pleas of guilty. Sentence deferred. Cases dismissed by court when defendant called for sentence.** (F. & D. Nos. 38600, 38631. Sample Nos. 63231-B, 63237-B to 63241-B, inclusive, 5172-C to 5175-C, inclusive.)

The labeling of these products, with the exception of the cold tablets, bore false and fraudulent representations regarding their curative and therapeutic effects; and that of the Sept-O-Cide bore false and misleading representations regarding its antiseptic, germicidal, and sterilizing properties. The cold tablets contained less acetanilid than the amount declared.

On January 25, 1938, the United States attorney for the District of Minnesota, acting upon reports by the Secretary of Agriculture, filed in the district court two informations against the Koch Products Co., a corporation, Winona, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, within the period from on or about July 2, 1935, to on or about June 29, 1936, from the State of Minnesota into the State of Wisconsin, of quantities of the above-named drug preparations which were misbranded and certain of which were also adulterated.

Analyses showed that the Stick Salve consisted essentially of a small proportion of zinc oxide incorporated in a base containing rosin and beeswax; that the Sept-O-Cide consisted essentially of small proportions of zinc chloride, volatile oils including menthol and thymoi, formaldehyde, vanillin, saccharin, alcohol (22.7 percent by volume), glycerin, and water; that the Inhalo consisted essentially of volatile oils, including eucalyptol and menthol (32.5 percent by volume), alcohol (53.4 percent by volume), and water; that the Cold Tablets contained less than 2½ grains of acetanilid each, namely, not more than 1.95 grains of acetanilid each; that the Campho-Lin consisted essentially of turpentine, small proportions of camphor, soap, ammonia, and ammonium chloride, and water; that the Cough Syrup consisted essentially of small proportions of ammonium chloride, volatile oils including menthol and oil of anise, and extracts of plant drugs including licorice, chloroform (0.09 gram per 100 cubic centimeters), sugar, and water; that the Mentho-Campho was a white powder consisting chiefly of sucrose and small amounts of menthol, camphor, and starch; that the Vegetable Tea Tablets contained plant drugs including licorice, sassafras, and an emodin-bearing drug, calcium carbonate, and sugar; that the Dyspepsia Tablets contained small proportions of bismuth subcarbonate, calcium carbonate, charcoal, and sugar; and that the Liver Pills contained extracts of

plant drugs including aloe, nux vomica, and an emodin-bearing drug, coated with sugar and lime carbonate.

The Stick Salve was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective as a cure and remedy for cuts, sores, rheumatic pains, neuralgic pains, rheumatism, backache, etc.

The Sept-O-Cide was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, (bottle) "Sept-O-Cide" and (circular) "A * * * very effective antiseptic and germicide"; whereas it was not an antiseptic and germicide when used as directed on the label. It was alleged to be misbranded in that the statements in the labeling, (bottle) "Sept-O-Cide Alcohol 15%" and (circular) "Sept-O-Cide * * * an excellent combination for sterilization and germicidal purposes * * * to be employed wherever its purifying and germ-destroying properties are required * * * Dr. Koch's Sept-O-Cide is a * * * very efficient antiseptic and germicide * * * Sept-O-Cide a liquid antiseptic," and "For sterilizing and deodorizing purposes in sick room use Sept-O-Cide full strength," were false and misleading since the article contained 22.7 percent by volume of alcohol, was not an antiseptic and germicide when used as directed on the label, and would not be effective at any strength for sterilizing. It was alleged to be misbranded further in that certain statements in the labeling falsely and fraudulently represented that it was effective to tend to harden the gums, to guard the human system against contagious disease, to cure sore, spongy, or bleeding gums, tender mouth, certain inflamed mucous membranes of the mouth and throat, tonsilitis, pyorrhea, stomatitis, and other superficial disorders of the teeth and the mouth; and effective as a douche in nasal catarrh and to keep one well.

The Inhalo was alleged to be misbranded in that it contained 53.4 percent of alcohol by volume, but neither the bottle label nor the carton bore a statement of the quantity or proportion of alcohol contained in the article. It was alleged to be misbranded further in that certain statements in the labeling falsely and fraudulently represented that it was effective to relieve head, throat, and nose congestion and the discomfort of nasal catarrh; to relieve congestion of the passages of the head, nose, and throat; to prevent the spread of inflammation and infection of the membranes of the head, nose, and throat; and to relieve difficult breathing, sore throat, running nose, and nasal catarrh.

The Cold Tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold in that the bottle label bore the statement "Each tablet contains 2½ grains acetanilide"; whereas each of the tablets contained not more than 1.95 grains of acetanilid. They were alleged to be misbranded in that the statement "Each tablet contains 2½ grains acetanilide," borne on the bottle label, was false and misleading.

The Camph-O-Lin was alleged to be misbranded in that the statement "Camph-O-Lin," borne on the bottle label, was false and misleading since it denoted that the article contained camphor as its principal ingredient in both quantity and strength; whereas it consisted essentially of turpentine, small proportions of camphor, soap, ammonia, ammonium chloride, and water. It was alleged to be misbranded further in that certain statements in the labeling falsely and fraudulently represented that it was effective to cure "neuralgia, bronchitis, and congestions of different nature," and effective to relieve the discomforts and pain attendant upon common swellings on the body, and as remedial in rheumatic and neuralgic pains; and as a curative of simple sore throat, lumbago, lameness due to back strain, earache, and aching feet.

The Cough Syrup was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective in the treatment of coughs and as a remedy for la grippe, severe colds in the head and similar ailments, hoarseness and similar conditions, and as a cure for worms in children.

The Vegetable Tea Tablets were alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that the article was effective to strengthen the bowels, to aid the kidneys, to keep one in a condition of health, to cure constipation, dyspepsia, enervation, liver trouble, sallow complexion, scrofula, skin diseases, stomach pains, summer complaint, and torpid liver, to activate the kidneys, and to accelerate the cure of kidney complaint; effective for the relief of biliousness and blotches on the face;

and effective to relieve and to hasten the cure of female complaints, to relieve from ulcers, and to act as a preventive of appendicitis, catarrh, depressed spirits, diseased blood, jaundice, and vertigo or dizziness.

The Dyspepsia Tablets were alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that they were effective to cure dyspepsia, indigestion, stomach catarrh, and all complaints of the stomach, and to afford relief from indigestion, stomach catarrh, and other stomach troubles arising from indigestion or dyspepsia.

The Menth-o-Campho was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective as a cure and remedy for catarrh, hay fever, and all catarrhal affections.

The Liver Pills were alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that they were effective as a cure for all troubles from torpid and diseased liver.

On January 25, 1938, pleas of guilty having been entered on behalf of the defendant to both informations, the court announced that sentence would be deferred until the January 1939 general term of court.

At the January 1939 term sentence again was deferred until March 13, 1939, on which day the court, upon being informed that none of the products of the defendant examined by this Department since the date of the original pleas had been found subject to regulatory action, ordered that the pleas of guilty be withdrawn and that the cases be dismissed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30602. Misbranding of Willson's Monarch Cough Syrup, Willson's Monarch Buchu Compound, Willson's Camphor and Eucalyptus Ointment, Willson's Monarch Worm Powder, Willson's Monarch Antiseptic Dusting Powder, and Willson's Monarch Healing Salve. U. S. v. Willson Monarch Laboratories, Inc. Plea of nolo contendere. Fine, \$100. (F. & D. No. 39837. Sample Nos. 34160-C, 34161-C, 34218-C, 34219-C, 34221-C, 34222-C, 34224-C.)

The labeling of these products, including both human and veterinary remedies, bore false and fraudulent representations regarding their curative and therapeutic effects, and that of the Dusting Powder bore misleading representations regarding its antiseptic properties. The Cough Syrup contained chloroform which was not declared on the label.

On February 5, 1938, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Willson Monarch Laboratories, Inc., Edgerton, Wis., alleging shipment by said defendant, in violation of the Food and Drugs Act as amended, within the period from on or about January 25 to on or about April 2, 1937, from the State of Wisconsin into the State of Illinois of quantities of the above-named drug preparations which were misbranded.

Analyses of samples showed that the Cough Syrup consisted essentially of extracts of plant drugs, pine tar, a small proportion of chloroform, glycerin, sugar, and water; that the Buchu Compound consisted of tablets containing extracts of plant drugs including buchu, and compounds of sodium and potassium; that the Camphor and Eucalyptus Ointment contained small proportions of camphor and eucalyptus incorporated in a petrolatum base; that the Worm Powder consisted essentially of plant material including areca nut, compounds of iron, magnesium, calcium and sodium, sulfates, chlorides, and carbonates; that the Antiseptic Dusting Powder consisted essentially of calcium carbonate, magnesium sulfate, small proportions of an iron compound and creosote, and talc; and that the Healing Salve was an ointment containing a small proportion of camphor incorporated in a petrolatum base. Bacteriological examination of the Dusting Powder showed that it was not an antiseptic nor a germicide, and would not serve as a germ-proof covering.

The Cough Syrup was alleged to be misbranded in that certain statements in the labeling regarding its curative and therapeutic effects falsely and fraudulently represented that it was effective for the cure and mitigation of coughs, bronchitis, croup, la grippe, whooping cough, and asthmatic and hacking cough. It was alleged to be misbranded further in that it contained chloroform and the bottle label failed to bear a statement of the quantity or proportion of chloroform that it contained.

The Buchu Compound was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective to

cure and mitigate irritable conditions of the bladder and urethra, pains in the back, painful, acid urination, or cystitis; to allay pain and irritable state of the bladder; to act as an antiseptic and stimulant to the mucous membranes of the genito-urinary organs; to reduce inflammation of those organs, and to check "separation"; to increase secretion of the kidneys and to render such secretion bland and nonirritating; to be of therapeutic benefit in the treatment of disorders in the aforesaid organs occasioned by cold or disturbed digestion, of prostate and atonic condition of the bladder; to remove the conditions that cause the bladder of an elderly person to retain urine that would be discharged in the absence of such conditions; to neutralize acids; to increase the action of the kidneys; and to act as a solvent of stone in the bladder.

The Camphor and Eucalyptus Ointment was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective as a penetrating skin remedy; to heal and to remedy all injuries and affections of the skin, many irritations of the mucous membranes, inflammations, pimples, irritated conditions of the skin due to any disturbance, internally or externally, rough and scaly skin troubles caused by organic disturbances, and affections of the scalp; to cure catarrh, hay fever, lung trouble, croup and irritations due to poisons or conditions of the nerves; and to relieve pain.

The Worm Powder was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective to destroy all intestinal parasites in horses, cattle, sheep, and hogs; and to destroy worms of any form in horses, cattle, sheep, and hogs.

The Dusting Powder was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective as an antiseptic in the treatment of septic conditions in animals other than man; to prevent infection from poisonous bacteria; to cure galls, wire cuts, scratches, and open sores of all kinds on animals; to purify serious oozing sores and to stop the sloughing that causes many sores to become chronic; to kill disease germs and to keep poisons out of open sores of all kinds on animals; to shrink up such sores; and as a germproof covering of sores. It was alleged to be misbranded further in that the following statements borne on the carton, "Antiseptic. This powder is strongly antiseptic. For killing disease germs. This dressing, if properly applied serves as a germ proof covering," were false and misleading since the article was not an antiseptic nor was it either a germicide nor a germproof covering.

The Healing Salve was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective as a healing and remedial agent in the treatment of diseases of and injuries to the skin; as a cure for old sores of every kind and for chronic diseases of the skin, cuts, eczema, and all cutaneous diseases; as a specific remedy for old ulcers; and as a remedy for all chronic sores, tetter, varicose ulcers, and all inflammatory conditions of the skin, especially for greased heel on horses.

The information also charged misbranding of a shipment of Chlorine Crystals in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1684 published under that act.

On February 10, 1939, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$10 on each of the counts, the fine on the counts charging violation of the Food and Drugs Act amounting to \$100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30603. Misbranding of Staggs' One Dose Bot and Worm Capsules. U. S. v. Cecil H. Staggs (C. H. Staggs & Sons). Plea of nolo contendere. Imposition of sentence suspended and defendant placed on probation. (F. & D. No. 39781. Sample No. 19882-C.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On March 1, 1938, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Cecil H. Staggs, trading as C. H. Staggs & Sons, Minneapolis, Minn., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about March 10, 1937, from the State of Minnesota into the State of Wisconsin, of a quantity of the above-named drug preparation which was misbranded.

Analysis showed that the article contained carbon disulfide in an average amount of 18.1 grams (3.89 fluid drams) per capsule.

The article was alleged to be misbranded in that certain statements in the labeling, regarding its curative and therapeutic effects, falsely and fraudulently represented that it was effective to remove worms from horses, colts, and mules; to kill parasites; as a treatment, remedy, and cure for roundworms, pinworms, bloodworms, heaves, pneumonia, colic, and indigestion; and as a preventive of colic.

The information charged that the article was also misbranded in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1679 published under that act.

On February 13, 1939, the defendant entered a plea of nolo contendere. Sentence was deferred until April 10, 1939, on which date imposition of sentence was suspended and the defendant was placed on probation for a period of 8 months.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30604. Adulteration and misbranding of Absorbal refills. U. S. v. 89 Packages of One Reel Refill Absorbal. Default decree of condemnation and destruction. (F. & D. No. 44837. Sample No. 48072-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be contaminated with viable micro-organisms.

On February 17, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 89 packages of Absorbal refills at St. Paul, Minn.; alleging that the article had been shipped on or about October 22 and 24, 1938, by Edward Girvin, D. D. S., from Philadelphia, Pa.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, i. e., "Sterilized," since it was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the statements, "Re Sterilized after packaging" and "Edward Girvin, D. D. S., Blue Nurse Products," were false and misleading, since they created the impression that the article was sterile and suitable for dental use; whereas it was contaminated with viable micro-organisms.

On April 5, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30605. Adulteration and misbranding of digitalis tablets. U. S. v. Five Bottles and Two Bottles of Tablets Whole Leaf Digitalis. Default decrees of condemnation and forfeiture. (F. & D. No. 45007. Sample No. 31772-D.)

This product had a potency of not more than 60 percent of that declared on the label.

On March 14, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven bottles of digitalis tablets at Buffalo, N. Y.; alleging that the article had been shipped in interstate commerce on or about November 8, 1938, from Richmond, Va., by Wilber & Miskimon, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that the strength of the article fell below the professed standard or quality under which it was sold, namely, "Each tablet represents * * * 1½ grains (approx. 0.1 gram) of Digitalis Leaf," since each tablet was equivalent to not more than 0.9 grain of digitalis.

Misbranding was alleged in that the statement, "Each tablet represents * * * 1½ grains (approx. 0.1 gram) of Digitalis Leaf," was false and misleading, since it represented that each tablet contained 1½ grains of digitalis; whereas each tablet contained less than 1½ grains of digitalis.

On April 10, 1939, no claimant having appeared, judgment of condemnation and forfeiture was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30606. Adulteration and misbranding of Concentra Food. U. S. v. 800 Cartons of Concentra Food. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 43158. Sample No. 18957-D.)

This product was sold as a food but contained powdered rhubarb root, a drug. Moreover, its labeling bore false and fraudulent curative and therapeutic claims.

On July 30, 1938, the United States attorney for the Southern District of Cali-

fornia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 800 cartons of Concentra Food at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about July 3, 1938, from Chicago, Ill., by Jean Ferrell, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis indicated that the product consisted essentially of powdered rhubarb root, some dried extractive material, soya bean tissues, and Irish moss tissues.

The article was alleged to be adulterated under the provisions of the law applicable to food in that a product containing rhubarb root, a drug, had been substituted wholly or in part for an article which purported to be a food.

It was alleged to be misbranded under the provisions of the law applicable to food in that the following statements appearing on top and side of carton, and in circular and leaflet in shipping case, were false and misleading and tended to deceive and mislead the purchaser by implying that the article was a food; whereas the article was not a food in that it consisted essentially of powdered rhubarb root, a drug: (Top of carton) "Concentra Food A Food Product"; (side of carton) "Concentra-Food Not a Medicine A Food Product is a concentrated, dehydrated vegetable and fruit compound containing Rhubarb, which furnishes the body a nutritional supplement, with the natural mineral element required for proper conditioning in a form whereby they are most easily assimilated"; (circular in shipping case) "Concentra Food * * * Concentra Food is a Pure Food"; (leaflet in shipping case) "Concentra Food Concentra Food is as the name implies, a highly concentrated, dehydrated food. This food is in capsule form and contains Rhubarb, Soya Bean Meal, Irish Sea Moss, Gravel Root, and Dehydrated Cranberries. There are sixteen elements in the body: oxygen, carbon, hydrogen, calcium, nitrogen, phosphorus, chlorin, sulphur, fluorin, potassium, iodine, iron, magnesium, silicon, manganese, and sodium. These sixteen elements must be furnished to the body in organic form through foods, for it is only through foods that the body is built and rebuilt. If there is an over-supply or a deficiency of these elements in the body, then that body is either too fat or too thin and needs correcting. Concentra Food answers these requirements perfectly as a highly concentrated balanced dietetic aid for the furnishing of a corrective organic element. * * * The Dehydrated Cranberries complete a balanced food, so you do not run the risk of vitamin or mineral starvation. Concentra Food aids the correcting of body elements. It will in time balance the diet by adding the deficient organic elements and vitamins."

The article was alleged to be misbranded under the provisions of the law applicable to drugs in that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Circular) "Several dozen capsules taken by a child at one time causes no ill effects. The greater the disturbance in the body the more Concentra Food one should take. * * * Take nothing for bodily ailments while on Concentra Food"; (leaflet) "The Rhubarb corrects the elimination of poisons from the body. If there is poison in our body, then the rhubarb may act as a physic, but after the elimination of this poison it brings about a normal daily action. It is not what we eat that causes incorrect balance of our body, but what we do not eliminate properly. * * * is an excellent diabetic food. It is very good for infants with the summer diarrhea. * * * The Gravel Root is a cleanser for our kidneys, thereby eliminating all poisons accumulated in the kidneys, just as the rhubarb does for the alimentary tract. * * * Concentra Food * * * will in time balance the diet by adding the deficient organic elements and vitamins, starting the elimination of gases, poisons, toxins and water deposits. Through the perfect balanced nutrition and proper elimination a natural, normal figure is developed and health is expressed in the hair, eyes, skin and voice."

On August 12, 1938, the consignee, Oscar J. Fehsel, Los Angeles, Calif., filed an answer denying jurisdiction of the court and moved to dismiss the libel on said ground. On November 12, 1938, the motion to dismiss having been submitted to the court on the record and briefs, the motion was denied. On March 13, 1939, Fehsel filed a disclaimer and withdrew his answer.

On March 13, 1939, pursuant to a stipulation and order vacating the default theretofore entered against Jean Ferrell, Inc., claim and answer was filed by Jean Ferrell, Inc., admitting the allegations of the libel and consenting to the entry of a decree; and on the same date judgment of condemnation was entered

and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30607. Misbranding of Kalo Santonin. U. S. v. Five Cans and Three Cans of Kalo Santonin Round Worm Expeller for Hogs. Default decree of condemnation and destruction. (F. & D. No. 44945. Sample No. 53057-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims; and the name "Kalo Santonin" was misleading since the article contained but a small proportion of santonin.

On March 4, 1939, the United States attorney for the Southern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight cans of Kalo Santonin at West Liberty, Iowa; alleging that the article had been shipped in interstate commerce on or about June 30, 1938, from Quincy, Ill., by Kalo Co.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample showed that it consisted essentially of sodium bicarbonate, areca nut, santonin (1.2 percent), calomel, and oil of anise.

The article was alleged to be misbranded in that the name "Kalo Santonin" was false and misleading when applied to an article containing only a small proportion of santonin. It was alleged to be misbranded further in that the following label statements regarding its curative or therapeutic effect were false and fraudulent: "Round worm expeller for hogs * * * for Herd treatment"; "This package will treat 16 head of 50 lb. pigs. For larger or smaller pigs feed in proportion"; and "For individual treatment Give one level teaspoonful for each 20 lbs. of pig's weight."

On May 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30608. Misbranding of Fatherland Tea. U. S. v. 22 Packages of Fatherland Tea. Default decree of condemnation and destruction. (F. & D. No. 44163. Sample No. 31517-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims; moreover, the product was falsely represented to be of German origin.

On October 20, 1938, the United States attorney for the Northern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 22 packages of Fatherland Tea at Wheeling, W. Va.; alleging that the article had been shipped in interstate commerce on or about May 2, 1938, from Pittsburgh, Pa., by Charles Stern; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article showed that it consisted essentially of senna leaves, chamomile flowers, fennel seed, juniper berries, dog grass, and buchu leaves.

It was alleged to be misbranded in that its name, "Fatherland Tea," and the following statements variously appearing in the labeling were false and misleading, since it was not of German origin: (English) "The Great German Herb Medicine"; (German) "The Celebrated German Herbs Medicine Fatherland Tea is a mixture of 18 German Herbs collected in all parts of Germany," and "The Celebrated German Herb Medicine." Misbranding was alleged further in that the following statements in the labeling, regarding the curative or therapeutic effect of the article, were false and fraudulent: (English) "For all Diseases of the Blood, Liver, Kidneys and Stomach * * * Is a remedy for Liver and Kidney Complaint, Biliousness, Dyspepsia, Sick Headache, Nervous Debility, Palpitation of the Heart, Flatulence, Malaria, Fever and Ague, Chills, Pain and Weakness of the Sight, Back and Sides, Loss of Appetite, * * * Blotches, Pimples, Rheumatism, Female Complaints. * * * And All Impurities of the blood"; (German) "If used according to directions, Fatherland Tea is a remedy for diseases of the Liver, Stomach and Kidneys, such as: * * * Headache, Palpitation of the Heart, Pochen, Rheumatism, Pain in the Back and Sides, Weakness of the Eyes, Female Diseases and All Impurities of the Blood"; (English) "A Remedy for all Diseases of the Kidneys, Liver, Stomach and Blood Such as Dyspepsia, Biliousness, Sick Headache, Nervous Debility, Palpitation of the Heart, Malaria, Fever and Ague, Chills, Weakness

of the Sight, Back and Sides, Loss of Appetite, * * * Blotches, Pimples, Female Complaints, Rheumatism and all Impurities of the Blood"; and (German) "A sure remedy for all affections of the Liver, Stomach and Kidneys such as: * * * Headache, Palpitation of the Heart, Loss of Appetite, Pochen, Rheumatism, Pain in the Back and Sides, Weakness of the Eyes, Female Diseases and All Impurities of the Blood."

On April 18, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, Acting Secretary of Agriculture.

30609. Adulteration and misbranding of elixir of sodium bromide, elixir of iron and quinine with strychnine sulfate, and elixir salicylic acid compound. U. S. v. D. L. Miller & Co., Inc. Plea of guilty. Fine, \$30. (F. & D. No. 42665. Sample Nos. 34220-D, 34262-D, 34643-D.)

The elixir of sodium bromide contained less sodium bromide than required by the National Formulary and less than that declared on its label. Furthermore, the label failed to bear a statement of the quantity or proportion of alcohol that it contained. The elixir of iron and quinine with strychnine sulfate contained less than one-fourth of the quinine sulfate and strychnine sulfate declared on its label and also less alcohol than the amount declared. The elixir salicylic acid compound contained less salicylic acid and less potassium iodide than declared on its label. Moreover, it was falsely represented to be "Guaranteed under the Pure Food and Drugs Act, June 30, 1906."

On February 18, 1939, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against D. L. Miller & Co., Inc., Waynesboro, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about June 11, July 2, and September 28, 1938, from the State of Pennsylvania into the State of Maryland, of quantities of the above-named pharmaceuticals which were adulterated and misbranded.

The elixir of sodium bromide was alleged to be adulterated in that it was sold under a name recognized in the National Formulary but differed from the standard of strength, quality, and purity as determined by the test laid down in said formulary since it contained less than 17 grams, i. e., not more than 15.89 grams, of sodium bromide per 100 cubic centimeters; whereas the National Formulary provides that elixir of sodium bromide shall contain not less than 17 grams of sodium bromide per 100 cubic centimeters; and the standard of strength, quality, and purity of the article was not declared on the container thereof. Further adulteration was alleged in that the strength of the article fell below the professed standard and quality under which it was sold, since each fluid ounce of the article was represented to contain 80 grains of sodium bromide; whereas each fluid ounce contained less than 80 grains, i. e., not more than 72.5 grains, of sodium bromide.

The elixir sodium bromide was alleged to be misbranded in that the statement on the label, "Each Fluid ounce represents: Sodium Bromide 80 grs.," was false and misleading since it represented that each fluid ounce of the article contained 80 grains of sodium bromide, whereas each fluid ounce contained less than 80 grains, i. e., not more than 72.5 grains, of sodium bromide. It was alleged to be misbranded further in that it contained alcohol and its label failed to bear a statement of the quantity or proportion of alcohol contained therein.

The elixir of iron and quinine with strychnine sulfate was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, since it was represented to contain in each fluid dram 1 grain of quinine sulfate and one-sixtieth of a grain of strychnine sulfate, equivalent to 0.838 grain of anhydrous alkaloids of quinine and strychnine per fluid dram; whereas it contained not more than 0.1894 grain of anhydrous alkaloids of quinine and strychnine per fluid dram, equivalent to less than one-fourth of the amount of quinine sulfate and strychnine sulfate declared on the label.

The elixir of iron and quinine with strychnine sulfate was alleged to be misbranded in that the label statements, "Alcohol 20%" and "Each Fluidrachm Contains: * * * Quinine Sulphate 1 grain Strychnine Sulphate 1/60 grain," were false and misleading since they represented that the article contained 20 percent of alcohol and that each fluid dram of said article contained 1 grain of quinine sulfate and one-sixtieth of a grain of strychnine sulfate; whereas the article contained less than 20 percent of alcohol, and each fluid dram

contained less than 1 grain of quinine sulfate, and less than one-sixtieth of a grain of strychnine sulfate. Further misbranding was alleged in that the article contained alcohol and its label failed to bear a statement of the quantity or proportion of alcohol contained therein.

The elixir salicylic acid compound was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, since it was represented to contain in each fluid dram 5 grains of salicylic acid and 2½ grains of potassium iodide; whereas each fluid dram contained less than 5 grains, i. e., not more than 4.45 grains, of salicylic acid, and less than 2½ grains, i. e., not more than 0.95 grains, of potassium iodide.

The elixir of salicylic acid compound was alleged to be misbranded in that the label statements, "To the Fluidrachm Acid Salicylic, 5 grs. * * * Potassa Iodide, 2½ grs." and "Guaranteed under the Pure Food and Drugs Act, June 30, 1906," were false and misleading, since they represented that the article contained in each fluid dram 5 grains of salicylic acid and 2½ grains of potassium iodide, that the article had been examined and approved by the Government of the United States, and was guaranteed by the Government to comply with the Food and Drugs Act of June 30, 1906, and that it did comply with the said act; whereas each fluid dram of the article did not contain 5 grains of salicylic acid and 2½ grains of potassium iodide but did contain a less amount, the article had not been so examined, approved, and guaranteed by the Government of the United States, and it did not comply with the Food and Drugs Act of June 30, 1906.

On March 14, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$30.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30610. Misbranding of Miller's Worm Tablets for Poultry, White Diarrhea Remedy, Black Head Remedy, Flu and Pneumonia Tablets, Scour and Diarrhea Treatment, Necrotic Enteritis Treatment, Nu-Vita Cleaner, U. S. v. George B. Miller (Miller Co., Miller Products Co., Miller Chemical Co.). Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42612, Sample Nos. 2203-D, 2209-D, 2211-D, 2213-D, 2214-D, 2215-D, 2216-D, 12306-D.)

The labeling of these veterinary products bore false and fraudulent curative and therapeutic claims.

On May 9, 1939, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George B. Miller, trading as the Miller Co., the Miller Products Co., and the Miller Chemical Co., at Waterloo, Iowa; alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about December 27, 1937, and April 4 and March 12, 1938, from the State of Iowa into the States of Wisconsin and New York, of quantities of the above-named products which were misbranded.

Analyses showed that the Worm Tablets consisted essentially of kamala, magnesium, calcium salts, and a small amount of nicotine; that the White Diarrhea Remedy consisted essentially of sodium sulfate, potassium permanganate, talc, and small amounts of iron and calcium salts; that the Black Head Remedy consisted essentially of cornstarch, talc, and phenolsulfonate of sodium, calcium, and copper colored with a pink dye; that the Flu and Pneumonia Tablets consisted essentially of copper and magnesium sulfates, calcium salts, and naphthalene; that the Scour and Diarrhea Treatment consisted essentially of a tannin-bearing substance resembling catechu, and small amounts of calcium salts and talc; that the Necrotic Enteritis Treatment consisted essentially of copper sulfate, magnesium, calcium, sodium, and potassium salts, charcoal, and a small amount of blue dye; and that the Nu-Vita Cleaner consisted of sucrose (97.1 percent) impregnated with creosote and colored with bluish-green coloring matter.

Misbranding of the Worm Tablets was alleged in that the labeling bore the following false and fraudulent curative and therapeutic claims: That the product was effective as a treatment, remedy, and cure for worms in poultry, and effective as a treatment for large roundworms in fowls.

Misbranding of the White Diarrhea Remedy was alleged in that its labeling bore the following false and fraudulent curative and therapeutic claims: That it was effective as a treatment, remedy, and cure for white diarrhea in poultry; effective for the prevention and cure of white diarrhea and other bowel troubles.

in baby chicks; effective as an intestinal antiseptic, tonic, and corrective; and effective to increase vitality and give baby chicks added strength.

Misbranding of the Black Head Remedy was alleged in that its labeling bore the following false and fraudulent curative and therapeutic claims: That it was effective as a remedy for blackhead in poultry and as a preventive or treatment of blackhead in turkeys and poultry.

Misbranding of the Flu and Pneumonia Tablets was alleged in that its labeling bore the false and fraudulent curative and therapeutic claim that the product was effective as a treatment, remedy, and cure for flu and pneumonia.

Misbranding of the Scour and Diarrhea Treatment was alleged in that its labeling bore the following false and fraudulent curative and therapeutic claims: That the product was effective as a treatment for scour and diarrhea in livestock; effective as a preventative and cure of diarrhea in young pigs, calves, colts, and baby chicks; effective as a preventative of bowel trouble in mature birds; and effective as an intestinal antiseptic.

Misbranding of the Necrotic Enteritis Treatment was alleged in that its labeling bore the following false and fraudulent curative and therapeutic claims: That the product was effective as a treatment for necrotic enteritis; effective to heal the lesions within the stomach and to disinfect the intestinal tract; and effective as a treatment, remedy, and cure for thornhead worms.

The Nu-Vita Cleaner was alleged to be misbranded in that its labeling bore the following false and fraudulent curative and therapeutic claims: That it was effective as an internal antiseptic and cleanser of the intestinal tract of livestock and poultry, effective to cleanse the genital organs and every vital organ in cattle, to remove every particle of afterbirth, to prevent retention of afterbirth, to eradicate and prevent the spread of disease among the herd and to insure the herd against infection and contagion; to remove the cause responsible for retention of afterbirth, and to clean cows and heifers within 3 hours following calving or aborting; effective to prevent fevered, weakened, emaciated condition of cows and heifers, absorption of disease germs and spread of disease; effective to cause the udders of cows to expand, to insure that cows will calve easily and milk abundantly, and that calves will be strong, vigorous, and healthy; effective to prevent shy breeding and sterility or barrenness caused by Bang's disease; effective to prevent fever, loss of appetite, and invasion of the blood stream by bacteria; effective to prevent failure to breed, sterility, or barrenness, weak calves, emaciated condition of cows, lessened milk production, and vaginal discharges; effective as a treatment for swollen vulva; effective to fit cows to freshen; effective to cleanse every vital organ of poultry, to improve the appetite and aid digestion; effective to produce more eggs, healthier flocks, and quicker growth of poultry; effective in restoring a sickly or run-down flock to health and production, and to stop "losses by fatality"; effective to prevent abortion in cattle; and effective as a tonic for cattle.

On May 9, 1939, the defendant having entered a plea of guilty, the court imposed a fine of \$50 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

80611. Misbranding of Cholax, Pancreatone, and Meth-O-Sol. U. S. v. Two Packages of Cholax (and two similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 43194, 43195, 43196. Sample Nos. 30049-D, 30050-D, 30051-D, 30052-D.)

The labeling of these products bore false and fraudulent curative and therapeutic claims and false and misleading representations regarding their ingredients.

On August 8, 1938, the United States attorney for the District of Delaware, acting upon a report by the Secretary of Agriculture, filed in the district court three libels praying seizure and condemnation of 2 packages of Cholax, 9 bottles of Pancreatone, and 32 bottles of Meth-O-Sol at Wilmington, Del.; alleging that the articles had been shipped in interstate commerce within the period from on or about July 16, 1937, to on or about June 23, 1938, from Philadelphia, Pa., by Crescent-Kelvan Co., and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses of samples showed that the Cholax consisted essentially of sodium sulfate, magnesium sulfate, sodium phosphate, sodium bicarbonate, citric and tartaric acid, with not more than a trace, if any, of a lithium compound; the Pancreatone consisted essentially of compounds of arsenic, manganese, and strychnine with pancreas and gentian; the Meth-O-Sol consisted essentially of

camphor, methyl salicylate, capsicum, croton oil, and turpentine incorporated in an ointment base.

The Cholax was alleged to be misbranded in that the statement "Pulvis Effervescentis Sodii Phosphatis Comp.", appearing on the carton and label, was false and misleading since it represented that the product was an effervescing preparation of sodium phosphate; whereas it was an effervescing preparation of sodium phosphate, sodium sulfate, and magnesium sulfate. A second allegation of misbranding was that the statement "Containing * * * Lithia," appearing upon the label and in a circular contained in the package, was false and misleading since it represented that the article consisted of lithia; whereas it contained no appreciable amount of, if any, lithia. A third allegation of misbranding was that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Carton) "Indicated in the treatment of Rheumatism, Gout, Uric Acid, Jaundice"; (bottle label) "Anti-Lithic, Anti-Rheumatic, Alterative, * * * For * * * Dizziness and Biliousness * * * as a laxative in Rheumatism, Gout, Jaundice, and affections of the Stomach, Liver and Kidneys"; (circular) "The Sparkling Stomach and Liver Salt * * * Cholax is indicated in the treatment of Rheumatism, Gout, Jaundice, Uric Acid conditions, * * * Nausea from various causes and affections of the stomach, liver and kidneys; in fact wherever a Uric Acid solvent, hepatic, stimulant, toxæmic, eliminant, gastric sedative * * * For its constitutional effect and as a gastric sedative"; and (leaflet) "Acts by stimulating the intestinal secretions necessary to a healthy digestion and regulating the liver, kidneys and the bowels in a natural manner."

The Pancreatone was alleged to be misbranded in that the designation "Pancreatone," appearing on the label, was false and misleading since it represented that the sole physiologically active ingredient of the article was pancreatin; whereas it contained other physiologically active ingredients, i. e., compounds of arsenic, manganese, and strychnine with pancreas and gentian. A further allegation of misbranding was that the label statements "Diabetes Mellitus" and "For diabetes mellitus, and all diseases of pancreatic origin" were statements regarding the curative or therapeutic effect of the article, and were false and fraudulent.

The Meth-O-Sol was alleged to be misbranded in that the name "Meth-O-Sol," appearing on the label, was false and misleading since it represented that the article contained methyl salicylate as its only active ingredient; whereas it contained methyl salicylate, camphor, croton oil, and turpentine oil as its active ingredients. A second allegation of misbranding was that the statement "Linimentum Camphorae Comp." appearing in an accompanying circular, was false and misleading since it represented that the article was a liniment consisting of camphor as its active ingredient; whereas it was a liniment consisting of camphor, methyl salicylate, capsicum, croton oil, and turpentine oil as its active ingredients. A third allegation of misbranding was that the following statements regarding the curative or therapeutic effects of the article were false and fraudulent: (Carton) "A Local Application For Congestion or Inflammation of the Lungs. Excellent in the Treatment of Pneumonia, Croup, * * * An Efficient Preparation For the alleviation of Rheumatism, Backache, Neuritis, Tonsilitis, and Enlarged Glands"; (label) "Recommended in the treatment of Neuritis, Rheumatism, Pleurisy, Lumbago, Backache, * * * Sciatica, or wherever there is pain"; (circular) "Methosol will be found an effective local application in Backache, Rheumatism, Lumbago, Sciatica, * * * Neuritis, Pleurisy, Incipient Pneumonia, Croup, Hoarseness, Sore Throat * * * relieving pain and stiffness of the muscles and joints."

On September 6, 1938, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L BROWN, Acting Secretary of Agriculture.

30612. Adulteration and misbranding of sutures. U. S. v. 26 Dozen Sutures (and 3 other seizure actions against the same product). Default decree of condemnation and destruction. (F. & D. Nos. 44650, 44961, 44807, 44849. Samples Nos. 36527-D, 36528-D, 36530-D, 36547-D, 36548-D, 36549-D, 36578-D, 36879-D, 36904-D, 36905-D, 36906-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be contaminated with viable micro-organisms.

Between January 10 and February 15, 1939, the United States attorneys for the District of Kansas and the Western District of Oklahoma, acting upon reports by the Secretary of Agriculture, filed in their respective district courts

libels praying seizure and condemnation of 26 dozen sutures at Fort Scott, Kans., 94 dozen sutures at Halstead, Kans., and 24 dozen packages, each containing 1 dozen sutures, at Oklahoma City, Okla.; alleging that the article had been shipped within the period from on or about December 13, 1937, to on or about January 3, 1939, from St. Paul, Minn., by the Laboratory of the Ramsey County Medical Society; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, i. e., "Pyoktanin Catgut," which standard implies sterility; whereas the article was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the label statement, "Pyoktanin Catgut * * * Directions: Tear the envelope and drop the contents into a sterile solution; soak the strand before application to make it pliable and to prevent breaking at the knot," was false and misleading since it created the impression that the article was sterile catgut suitable for surgical use; whereas it was contaminated with viable micro-organisms and was unsuitable for surgical use.

On March 22, March 30, and May 19, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30613. Adulteration and misbranding of peroxide of hydrogen. U. S. v. 136 Bottles and 96 Bottles of Peroxide of Hydrogen. (F. & D. Nos. 44797, 44798. Sample Nos. 39812-D, 39813-D.)

This product contained less hydrogen peroxide than declared and did not conform strictly to United States Pharmacopoeia standards, as claimed.

On February 7, 1939, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 232 bottles of peroxide of hydrogen at Seattle, Wash.; alleging that the article had been shipped in interstate commerce on or about January 5, 1939, from Los Angeles, Calif., by Columbia Laboratories, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The 136 bottles were alleged to be adulterated in that the strength of the article fell below the professed standard and quality under which it was sold, i. e., "Active Ingrd. H₂O₂ 5.1%," since it contained less than 5.1 percent of hydrogen peroxide.

Misbranding of the 136 bottles was alleged in that the label statements, "Active Ingrd. H₂O₂ 5.1%" and "Made in Strict Conformance with the United States Pharmacopoeia Standards," were false and misleading, since the article contained less than 5.1 percent of hydrogen peroxide, and it was not made in strict conformance with the United States Pharmacopoeia standards in that the maximum tolerance for solution of hydrogen peroxide is 3.5 grams per 100 cubic centimeters, and this article contained more than 3.5 grams per 100 cubic centimeters.

The 96 bottles were alleged to be adulterated in that the strength of the article fell below the professed standard and quality under which it was sold, namely, "Active Ingredient Hydrogen Dioxide 6%," since it contained less than 6 percent of hydrogen dioxide.

Misbranding of the 96 bottles was alleged in that the label statement "Active Ingredient Hydrogen Dioxide 6%" was false and misleading, since the article contained less than 6 percent of hydrogen dioxide.

On April 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30614. Misbranding of sweet spirit of nitre, peroxide of hydrogen, tincture of benzoin, spirit of camphor, and compound tincture of benzoin. U. S. v. The Ideal Laboratories, Inc. Plea of guilty. Fine, \$150. (F. & D. No. 42643. Sample Nos. 27245-D, 27251-D, 27484-D, 27491-D, 27494-D, 30408-D.)

These products were misbranded in the following respects: The sweet spirit of nitre and the spirit of camphor because they were labeled to indicate that they were pharmacopoeial products; whereas the sweet spirit of nitre contained ethyl nitrite in excess of the amount specified in the pharmacopoeia and the spirit of camphor contained less camphor than specified in that authority; the peroxide of hydrogen because it contained hydrogen peroxide in excess of the amount declared on the label; and the tincture of benzoin and compound

tincture of benzoin because of failure of the labels to bear a statement of the quantity or proportion of alcohol contained in the articles.

On March 22, 1939, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Ideal Laboratories, Inc., Denver, Colo., alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about May 5 to on or about June 30, 1938, from the State of Colorado into the States of Wyoming and Montana of quantities of the fore-mentioned pharmaceuticals which were misbranded.

The sweet spirit of nitre was alleged to be misbranded in that the statement on the label, "Sweet Spirit Nitre U. S. P." was false and misleading, since it represented that the article conformed to the standard laid down in the United States Pharmacopoeia for spirit of nitre, i. e., that it contained not more than 4.5 percent of ethyl nitrite; whereas it did not conform to such standard in that it contained more than 4.5 percent, i. e., not less than 5.33 percent, of ethyl nitrite.

The peroxide of hydrogen was alleged to be misbranded in that the statement on the label, "Active Ingredients: H-2, O-2, 5.1%," was false and misleading, since it represented that the article contained 5.1 percent of H_2O_2 (hydrogen peroxide), whereas it contained more than 5.1 percent of hydrogen peroxide, samples from the two shipments having been found to contain 8.17 percent and 8.28 percent, respectively, of hydrogen peroxide.

The tincture of benzoin and compound tincture of benzoin were alleged to be misbranded in that they contained alcohol and their labels failed to bear a statement of the quantity or proportion of alcohol that they contained.

The spirit of camphor was alleged to be misbranded in that the statement on the label, "Spirit Camphor U. S. P." was false and misleading, since it represented that the article conformed to the standard laid down in the United States Pharmacopoeia for spirit of camphor, i. e., that it contained in each 100 cubic centimeters not less than 9.5 grams of camphor; whereas it did not conform to such standard in that it contained less than 9.5 grams of camphor in each 100 cubic centimeters.

On May 29, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30615. Adulteration and misbranding of gauze pads and gauze bandages. U. S. v. 28 Cartons of Nicoll's Dispensary Gauze Pads (and 2 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 44681, 44753, 45254. Sample Nos. 35128-D, 35129-D, 35131-D, 48223-D, 48234-D.)

These products had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination they were found to be contaminated with viable micro-organisms.

On January 14, January 31, and May 1, 1939, the United States attorneys for the District of Minnesota and the District of Maryland, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 170 cartons of gauze pads at Minneapolis, Minn., and 148 cartons of gauze pads and 97 cartons of gauze bandages at Baltimore, Md.; alleging that the articles had been shipped within the period from on or about August 10, 1938, to on or about February 16, 1939, by Handy Pad Supply Co. from Worcester, Mass.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The articles were alleged to be adulterated in that their purity fell below the professed standard or quality under which they were sold, in that they were represented to be sterile products; whereas they were not sterile but were contaminated with viable micro-organisms.

Misbranding was alleged in that the following statements appearing variously in the labeling were false and misleading when applied to articles that were not sterile: (Pads) "Gauze Pads Sterilized after packaging at 250° Fahr.," "Sterilized after Packaging," "Dispensary Gauze Pads," "Prepared For The Medical Profession"; (bandages) "Sterilized," "Surgical Gauze Bandage," "Sterilized after Packaging," "Prepared especially For The Medical Profession," "This bandage has been carefully manufactured under most sanitary conditions, for surgical use."

On March 16, April 27, and May 23, 1939, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30616. Adulteration and misbranding of surgical cotton and bandages. U. S. v. 89 Dozen and 8 Packages of Gauze Bandages (and 7 other seizure actions against similar products). Default decree of condemnation and destruction. (F. & D. Nos. 42947, 42948, 42949, 42951, 44422, 44730, 44787, 44880. Sample Nos. 25557-D, 26519-D, 31216-D, 31217-D, 31218-D, 31761-D, 42469-D, 49009-D.)

These products had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination they were contaminated with viable micro-organisms.

Between June 17, 1938, and February 23, 1939, the United States attorneys for the Western District of Pennsylvania, the District of New Jersey, and the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of the following surgical dressings: 125% dozen packages of gauze bandages and 93 packages of absorbent cotton at Pittsburgh, Pa.; 506 dozen packages of bandages at Jersey City, N. J.; 57 cartons of surgical gauze at Newark, N. J.; 42 dozen packages of absorbent cotton at Erie, Pa.; 288 packages of absorbent cotton at Johnstown, Pa.; and 12 gross packages of gauze bandages at Boston, Mass. The libels alleged that the articles had been shipped within the period from on or about March 19, 1938, to on or about January 7, 1939, by the American White Cross Laboratories from New Rochelle, N. Y.; and that they were adulterated and misbranded in violation of the Food and Drugs Act.

The articles were alleged to be adulterated in that their purity fell below the professed standard or quality under which they were sold since certain statements on the labeling represented that they were sterilized absorbent cotton, bandages, and gauze; whereas they were not sterile, but were contaminated with viable micro-organisms.

They were alleged to be misbranded in that the following statements appearing variously on the packages were false and misleading when applied to articles that were not sterile: "Gauze Bandage Sterilized"; "Sterilized after packaging"; "White Cross Bandage * * * Are scientifically prepared under the most sanitary conditions. Absolute satisfaction guaranteed"; "Sterilized White Cross Absorbent Cotton * * * The White Cross of Perfection is your protection"; "Surgical Sanitary"; "Surgical * * * Sterling Absorbent Cotton Sterilized after Packaging"; "Sterilized * * * Surgical Gauze"; "Certified * * * This sterilized bandage has been prepared and manufactured under the most sanitary conditions. It may be used for both surgical and home uses."

Between December 28, 1938, and May 8, 1939, the claims and answers filed by the American White Cross Laboratories in the cases instituted at Pittsburgh having been withdrawn, and no claim having been entered in the remaining cases, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30617. Adulteration and misbranding of Squibb Cod Liver Oil. U. S. v. 56 Drums of Squibb Cod Liver Oil Non-Destearinated. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 44868. Sample No. 48235-D.)

The strength of this product fell below the professed standard or quality under which it was sold, i. e., "Vitamin D, 175 A. O. A. C. Chick Units."

On February 18, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 56 drums of cod-liver oil at Minneapolis, Minn.; alleging that the article had been shipped in interstate commerce on or about January 19, 1939, by E. R. Squibb & Sons from Brooklyn, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength or purity fell below the professed standard or quality under which it was sold, i. e., "Biologically assayed for Vitamin D, 175 A. O. A. C. Chick Units" per gram; whereas in fact it contained less than 175 A. O. A. C. Chick Units Vitamin D per gram.

Misbranding was alleged in that the article bore on its label the following statement, "Biologically assayed for Vitamin D, 175 A. O. A. C. Chick Units," which statement was false and misleading, as representing that the article contained 175 A. O. A. C. Chick Units of Vitamin D per gram, when in fact it contained a less amount.

On March 27, 1939, E. R. Squibb & Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30618. Misbranding of Nichol's Lung Life. U. S. v. 17 Bottles of Nichol's Lung Life. Default decree of condemnation and destruction. (F. & D. No. 44387. Sample No. 38701-D.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On November 26, 1938, the United States attorney for the Northern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 bottles of Nichol's Lung Life at Shelby, Miss.; alleging that the article had been shipped in interstate commerce on or about November 3, 1938, by Nichols Chemical Co. from Memphis, Tenn.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of water, sugar, alcohol, and extracts of plant materials including licorice.

The article was alleged to be misbranded in that the following statements on the bottle label regarding its curative or therapeutic effects were false and fraudulent: "Lung Life for that Cough," "Helps Clean the Blood," "A Special Lung Preparation for relieving all Lung Trouble, Coughs, Pneumonia, Bronchial Trouble, Spitting Blood, Asthma, Pellagra, and all Catarrhal conditions of the system," and "Especially recommended for Deep-seated colds on the Lungs, Coughs, Pneumonia, Asthma, Pellagra, Nervousness, Female Weakness and all Catarrhal conditions of the System. A few doses will convince you of its helping power."

On January 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30619. Adulteration and misbranding of Smaco Carotene in Oil. U. S. v. 420 Cartons, 192 Cartons, and 23 $\frac{1}{2}$ Cartons of Smaco Carotene in Oil. Default decree of condemnation and destruction. (F. & D. Nos. 41693, 41695. Sample Nos. 2905-D, 40078-C.)

This product contained a smaller amount of vitamin A than that declared on the label.

On February 14, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 896 cartons of Smaco Carotene in Oil at San Francisco, Calif.; alleging that the article had been shipped in interstate commerce on or about September 29 and December 2, 1937, from Cleveland, Ohio, by S. M. A. Corporation; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, (one shipment) "Gelatin capsules, each having a biological potency not less than 4000 new U. S. P. units of vitamin A (U. S. P. X-1934 revision)," or (other shipment) "Gelatin capsules, each having a biological potency not less than 4000 new U. S. P. units of vitamin A," in that each capsule was equivalent to less than 3,000 U. S. P. units of vitamin A.

Misbranding was alleged in that the following label statements were false and misleading when applied to an article consisting of capsules of an oil solution of carotene, each capsule being equivalent to less than 3,000 U.S.P. units of vitamin A: (One shipment) "Gelatin capsules, each having a biological potency of not less than 4000 new U.S.P. units of vitamin A (U.S.P. X-1934 revision)"; (other shipment) "Gelatin capsules, each having a biological potency not less than 4000 new U.S.P. units of vitamin A."

On May 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30620. Adulteration and misbranding of Normal Nux and Mercurial Eye Ointment; misbranding of santonin and calomel tablets. U. S. v. Norden Laboratories. Plea of guilty. Fine, \$100. (F. & D. No. 42677. Sample Nos. 15290-D, 15292-D, 15294-D.)

The Normal Nux contained less strychnine and brucine sulfates than declared; the Mercurial Eye Ointment contained less yellow mercuric oxide than declared; and the Santonin and Calomel Tablets contained santonin and calomel in excess of the amount declared.

On April 29, 1939, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district

court an information against Norden Laboratories, a corporation, Lincoln, Nebr., alleging shipment by said defendant within the period from on or about June 1 to on or about June 13, 1938, from the State of Nebraska into the State of Kansas, of quantities of Normal Nux and Mercurial Eye Ointment which were adulterated and misbranded, and of Santonin and Calomel Tablets which were misbranded in violation of the Food and Drugs Act.

Adulteration of Normal Nux was alleged in that its strength and purity fell below the professed standard and quality under which it was sold, since the label represented that it contained 14.6 grains strychnine and brucine sulfates per fluid ounce; whereas it contained not more than 11.0 grains of strychnine and brucine sulfates per fluid ounce. Misbranding of Normal Nux was alleged in that the label statement "Each fluid ounce contains: Strychnine and Brucine Sulphates 14.6 grs." was false and misleading, for the reason that each fluid ounce of the article contained less than 14.6 grains of strychnine and brucine sulfates, i. e., not more than 11.0 grains.

Adulteration of Mercurial Eye Ointment was alleged in that its strength and purity fell below the professed standard and quality under which it was sold, since the label represented that it contained 1 percent yellow mercuric oxide; whereas the proportion of mercuric oxide varied from 0.68 to 0.89 percent. Misbranding of Mercurial Eye Ointment was alleged in that the label statement, "Mercurial Eye Ointment Contains: Yellow Mercuric Oxide 1%," was false and misleading for the reason that the article contained less than 1 percent mercuric oxide, i. e., proportions varying from 0.68 to 0.89 percent.

Misbranding of the santonin and calomel tablets was alleged in that the label statement, "Certified Santonin and Calomel Tablets Santonin $\frac{1}{2}$ gr. Calomel $\frac{1}{2}$ gr." was false and misleading since it represented that each tablet of the article contained $\frac{1}{2}$ grain of santonin and $\frac{1}{2}$ grain of calomel; whereas each tablet of the article contained more than $\frac{1}{2}$ grain of santonin and more than $\frac{1}{2}$ grain of calomel, i. e., not less than 0.548 grain of santonin and 0.623 grain of calomel.

On May 5, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30621. Misbranding of gauze bandages. U. S. v. 119 Dozen Packages of Gauze Bandages. Default decree of condemnation and destruction. (F. & D. No. 44922. Sample No. 49014-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be contaminated with viable micro-organisms. It was labeled to indicate that it was appropriate for use as a surgical dressing and consisted of 10-yard rolls; whereas it was not appropriate for such use and the rolls were much shorter than 10 yards. Some rolls consisted of short pieces sewn together.

On March 2, 1939, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 119 dozen packages of gauze bandages at Boston, Mass.; alleging that the article had been shipped by Meditex Supply Co. on or about January 30, 1939, from New York, N. Y.; and charging misbranding in violation of the Food and Drugs Act. A portion of the article was labeled in part: "Doctors' and Nurses' Gauze Bandage." The remainder was labeled in part: "Physicians and Surgeons' Gauze Bandage."

Misbranding was alleged in that the statement "Doctors' and Nurses' Gauze Bandage" and the picture of a nurse on the label, were false and misleading since it created the impression that the article was appropriate for the use of doctors and nurses; whereas it was not so appropriate but was contaminated with viable micro-organisms. A second allegation of misbranding was that the statement "2 inches . 10" upon a package of the size ordinarily used for the packaging of bandages 2 inches wide and 10 yards long was false and misleading, since the length of the bandage was materially less than 10 yards. A third allegation of misbranding was that the statement "Gauze Bandage" appearing upon the cartons was false and misleading, since the article in certain of the packages was not woven continuously as the term "Gauze Bandage" implied, but consisted of short pieces sewn together.

On May 8, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30622. Adulteration and misbranding of Neu-Life. U. S. v. William Fulford Brown (Health Laboratories). Plea of guilty. Fine, \$180. (F. & D. No. 42537. Sample No. 50356-C.)

The labeling of this product bore false and fraudulent curative and therapeutic claims and false and misleading representations regarding its content of minerals and vitamins.

On October 8, 1938, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William Fulford Brown, trading as Health Laboratories, Sacramento, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about October 11, 1937, from the State of California into the State of Illinois of a quantity of Neu-Life that was adulterated and misbranded.

Analysis of a sample of the article showed that it consisted essentially of plant material containing calcium (1.0 percent), magnesium (0.7 percent), iron (0.02 percent), iodine (0.37 percent), sulfur (0.6 percent), phosphorus (0.3 percent), potassium (7.5 percent), and sodium (3.1 percent).

Adulteration was alleged in that the strength and purity of the article fell below the professed standard and quality under which it was sold, i. e., as containing vitamin D, since it did not contain vitamin D.

The article was alleged to be misbranded in that the statements on the label, "Contains No Drugs An Organic Vegetable Mineral Product Containing Iron, Calcium, Sodium, Potassium, Phosphorus, Magnesium, Sulphur. Iron in Organic Combination and Other Valuable Minerals and Vitamins A, B, C, and D and E," were false and misleading since they represented that it contained substances and ingredients in which the aforesaid mineral elements and vitamins were present in combination in sufficient quantities and proportions to produce a medicinal effect upon the physiological functions of the human body, and that the article contained no drugs; whereas it did not contain any demonstrable amount of vitamin D, it did not contain the substances or ingredients in the quantities and proportions indicated, and it did contain compounds of iodine, a drug.

The article was also alleged to be misbranded in that certain statements, designs, and devices regarding its therapeutic and curative effects, appearing in a circular accompanying the article, falsely and fraudulently represented that it was effective to imbue the user with new life, to build up a new health and happiness, and to overcome glandular weakness and nerve prostration.

On March 13, 1939, a plea of guilty having been entered, the court imposed a fine of \$180.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30623. Adulteration and misbranding of Digitos Tablets and tincture of digitalis. U. S. v. Three Bottles of Digitos Tablets (and three similar seizure actions). Default decrees of condemnation and destruction. (F. & D. Nos. 45061, 45073, 45074, 45255. Sample Nos. 41992-D, 42276-D to 42280-D, inclusive, 42298-D, 42300-D.)

Each of these products had a potency materially lower than that of the professed standard and quality under which it was sold.

On March 20 and 23 and May 1, 1939, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court four libels praying seizure and condemnation of 3 bottles of Digitos Tablets at Atlantic City, N. J., and 4 bottles of Digitos Tablets and 25 bottles of tincture of digitalis at Trenton, N. J.; alleging that the articles had been shipped in interstate commerce within the period from on or about June 24, 1938, to on or about March 17, 1939, from Philadelphia, Pa., by Sharp & Dohme, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The Digitos Tablets were alleged to be adulterated in that their strength fell below the professed standard and quality under which they were sold, namely, (bottle) "(Tablets Digitalis Leaves * * *) 1½ grains." (carton) "Each tablet represents the activity of 15 minims (1 cc.) tincture of digitalis U. S. P." and (circular) "Each tablet Digitos represents the activity of 15 minims (1 cc.) tincture digitalis U. S. P. XI," in that said statements represented that the article had a potency of 1½ grains of digitalis leaves per tablet and 15 minims (1 cc.) of tincture of digitalis per tablet; whereas one shipment of the article had a potency of not more than 0.9 grain of digitalis leaves per tablet (equivalent to not more than 9.0 minims (0.6 cc.) of tincture of

digitalis per tablet), and another shipment had a potency of not more than 1.1 grains of digitalis leaves per tablet (equivalent to not more than 11.0 minims (0.7 cc.) of tincture of digitalis per tablet). Misbranding of the Digitos Tablets was alleged in that the aforesaid statements were false and misleading.

The tincture of digitalis was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, but differed from the standard of strength, quality, and purity as determined by the test laid down therein and its own standard of strength, quality, and purity was not stated on the label. Misbranding was alleged in that the label statement "Tincture Digitalis U. S. P. XI" with respect to both lots, and the further statement "Biologically Standardized" with respect to one lot, were false and misleading when applied to an article that was materially subpotent.

On April 25 and June 2, 1939, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30624. Adulteration and misbranding of gauze pads. U. S. v. 60 Packages of Dispensary Gauze Pads. Default decree of condemnation and destruction. (F. & D. No. 45258. Sample No. 47281-D.)

This product was represented to be sterile but was contaminated with viable micro-organisms.

On May 2, 1939, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 60 packages of dispensary gauze pads at Washington, D. C.; alleging that the article was being offered for sale in the District of Columbia, in possession of the Kloman Instrument Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard under which it was sold, i.e., (carton) "Sterilized," since it was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the statements on the label, "Dispensary Gauze Pads," "Sterilized After Packaging at 250° Fahr.," and "Prepared For The Medical Profession," were false and misleading, since the product was not sterile and was not suitable for dispensary use or for use by the medical profession.

On May 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30625. Misbranding of Zilatone. U. S. v. 18 Packages and 48 Packages of Zilatone (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 30484, 30537, 30541, 30548. Sample Nos. 34487-A, 34762-A, 38271-A to 38274-A, inclusive.)

The labeling of this product contained false and fraudulent representations regarding its curative and therapeutic effects.

On May 26 and 29 and June 1, 1933, the United States attorneys for the Eastern and Western Districts of Pennsylvania and the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 68 packages of Zilatone at Pittsburgh, Pa., 334 packages of Zilatone at Philadelphia, Pa., and 249 packages of Zilatone at Boston, Mass.; alleging that the article had been shipped in interstate commerce within the period from April 27 to May 18, 1933, by the Drew Pharmacal Co. from Buffalo, N. Y.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analyses showed that the article consisted of tablets containing phenolphthalein, bile salts, pepsin, pancreatin, and extracts of plant drugs including capsicum, nux vomica, and a laxative drug.

The article was alleged to be misbranded in that certain statements on the box labels and in a circular shipped with it, regarding its curative and therapeutic effects, falsely and fraudulently represented that it was effective to increase digestion, to stimulate the liver, and to produce an increased flow of bile; effective in the treatment of chronic constipation, certain forms of gall-bladder disorders, and as a medical treatment for gallstones; effective in the treatment of auto-intoxication when due to intestinal stasis, of diseases of the biliary system, cholecystitis, and catarrhal conditions of the stomach and duodenum; effective to keep the intestinal tract free from cumulative toxic

matter; effective as a treatment of habitual constipation, intestinal putrefaction, and infections of the gall bladder and bile ducts; and effective to reestablish more nearly normal bowel and liver functioning.

On March 6 and 20 and April 6, 1939, the claims and answers of J. H. Cummings, trading as the Drew Pharmaceutical Co., having been withdrawn and no other claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30626. Adulteration and alleged misbranding of cold tablets. U. S. v. Strong, Cobb & Co., Inc. Plea of not guilty. Tried to the court. Judgment of guilty on adulteration charge; not guilty on misbranding charge. Fine, \$100. Judgment affirmed on appeal. (F. & D. No. 33759. Sample No. 42736-A.)

This product was represented to contain 1 grain of acetanilid and 0.625 grain of quinine sulfate in each tablet; whereas each tablet contained not more than 0.83 grain of acetanilid and not more than 0.56 grain of quinine sulfate.

On September 22, 1934, the United States attorney for the Northern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Strong, Cobb & Co., Inc., Cleveland, Ohio, alleging shipment by said defendant in violation of the Food and Drugs Act, on or about January 21, 1933, from the State of Ohio into the State of Oklahoma of a quantity of cold tablets that were adulterated and misbranded.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, in that each of said tablets was represented to contain 1 grain of acetanilid and 0.625 grain of quinine sulfate; whereas each tablet contained less than 1 grain, i.e., not more than 0.83 grain, of acetanilid, and less than 0.625 grain, i.e., not more than 0.56 grain, of quinine sulfate.

Misbranding was alleged in that the article contained acetanilid and its label failed to bear a statement of the quantity or proportion of acetanilid contained therein.

On February 1, 1935, the defendant, by its attorney, filed a demurrer and motion to quash, both of which were overruled, the court on March 6, 1935, handing down the following memorandum decision:

WEST, Judge. "The first count charges adulteration of a drum of cold tablets shipped by defendant in interstate commerce in that each of said tablets was adulterated, its strength and purity falling below the professed standard and quality under which it was sold.

"I do not agree with defendant's view that the professed standard of quality must be found in the label on the goods. The information charges that defendant made representations to the consignee by letters of the amount of acetanilid and quinine sulfate contained in the cold tablets; and that the tablets in fact contained less of these drugs than was so represented. The letters contained a professed standard within the meaning of section 8 of the Food and Drug Acts [sic]; and as the cold tablets fell below this standard, they were adulterated within the meaning of the same section and it was unlawful to ship them in interstate commerce.

"Count 2 charges misbranding of the same tablets in that while they contained acetanilid, the label on the cask or drum containing them failed to bear a statement of the quantity or proportion of acetanilid as mentioned in section 10 of the act. Defendant cites *U. S. v. 65 Casps [sic] Liquid Extracts*, 170 Fed. 449, affirmed 175 Fed. 1022, and claims that the facts when developed will bring the case within those decisions. But no such facts appear on the face of the information, and the cases have no present application. In this connection see *Hipolite Egg Co. v. U. S.*, 220 U. S. 45, at 52 et seq., where the court discusses these cases. At page 54 Mr. Justice McKenna says: 'All articles, compound or single, not intended for consumption by the producer, are designed for sale, and, because they are, it is the concern of the law to have them pure.' It is at least doubtful whether the Supreme Court holds the views expressed by the lower court in the Knowlton cases.

"But the allegations of the second count are sufficient to state a case of misbranding.

"The demurrer and motion to quash is overruled with exceptions to defendant."

Whereupon, the defendant, by its attorney, filed a plea of not guilty to the information, and the case came on for trial before the court, a jury having been waived. On February 14, 1938, the court adjudged the defendant guilty of the

first count and granted a motion to dismiss the second count, handing down the following oral opinion:

JONES, Judge. "Assume that there are, as you say, certain tolerances or certain variations in respect to what may be recognized as a slight variation either way, both in fulfilling requirements, and a slight variation from the analytical standpoint; assuming for the purpose of argument that the variation that has been testified to is in effect, that is still a wide gap between the extent of the variation and what the Government's testimony and evidence is in respect to what this drug contained. That is the way I look at it now. There is a spread even between the tolerances, and the fact, if I accept the Government's chemist's testimony. Isn't that about—"

Mr. GODFREY (counsel for defendant). "Yes, your honor, that is the situation, I must admit, but the cases hold that the burden in these cases is upon the Government. * * *."

The COURT (after argument). "The defendant's claim would tend to show that there was more acetanilid in there than was actually required, and one of the others said the difference was practically nil."

Mr. WEIDEMAN, (assistant United States attorney). "That is right. Furthermore, the price of the drug means nothing. It isn't a question here as to them trying to save any money by holding out, but the point is that drugs must be accurately manufactured for the protection of the public."

The COURT. "Especially where this was one of the drugs, as I understand it, that had to be noted. * * *"

"I don't know what the fact is, but it seems to me if this is the type of drug which has to be noted as being present, and it has deleterious characteristics which may be harmful, that the tolerance noted in these books is of a pretty widespread, if the drug is of that character. * * *"

"Is that the language of the court 'did not intentionally'?"

Mr. GODFREY. "That is right."

The COURT. "Intent has no bearing on it. I don't understand that. It weakens the opinion, in my judgment, because it is clear that intent isn't the point involved."

Mr. GODFREY. "It just happened to be used by the lower court in his opinion."

The COURT. "It must have influenced him."

Mr. GODFREY. "The court finally says: 'I don't know whether it permits of an accurate result or does not permit of an accurate result.'

"Then the Court of Appeals says: 'There is so little in this testimony to justify any punishment at all upon the defendant—nothing except a very technical violation of the law—that even if I were to consider this plea of nolo contendere, I don't think I would add anything to the punishment imposed. We are of the view that the lower court not only entertained, but expressed, a reasonable doubt of the guilt of the defendant, and we think the familiar rules applicable in criminal cases have not been satisfied in this case. The judgment appealed from is therefore reversed.'"

The COURT. "You see, there is the difficulty with that case, because the result was dependent upon how the court looked at the facts and the evidence, so that different judges might look at different facts in different ways, and they might size up witnesses differently. The whole thing is a fact question in respect to the first count."

Mr. GODFREY. "I believe the chief point is it should not be decided on the preponderance of the evidence."

The COURT. "It is a quasi criminal proceeding; it is not exactly a true criminal proceeding, because it goes on on the filing of information. I have more of an impression than a preponderance. I think this drug did not meet the required formula itself. That is the impression left on me from the evidence in the case. I have no doubt about it, and the question of intention is not involved at all."

Mr. GODFREY. "Of course not."

The COURT. "I do not think Strong, Cobb & Co. intended to send out a drug of that type, but I think the statute is a positive one. It is a good deal like the safety appliance act. If there is something defective on a car, the railroad is liable. Its intentions to repair it, or its efforts to repair it, amount to nothing. If the defect is there and someone was hurt, that is the end of it."

"It is a positive statute which requires it to be, as you say, within the tolerance, but I am not satisfied that there is that spread on either side of the formula quantity contended for; and making due allowance for the ex-

perimental variations, as they call it, that two different chemists might make in their analyses, still I think there was a sufficient departure from the formula in this case to justify the court finding that count 1 of the information was violated, and I so hold.

"As to count 2, I think I must sustain the motion. My conviction is that this was a shipment in bulk in interstate commerce that was not intended for distribution to the public; and besides that, there is evidence that there was a label inside of the drum, and the evidence as to whether there was or was not one on the outside of the drum is insufficient for me to find that beyond a reasonable doubt there was no label on the outside of this package.

"The reason for that is obvious. The package or the drum was not seen for several months after the shipment, and the evidence is unsatisfactory upon which to base a finding that this package or drum was not labeled on the outside. And of course there is a question in my mind whether under these circumstances, under this character of shipment, it was essential to label the outside of this drum, sold directly to the customer and not to the public, that it required a label denoting the presence of acetanilid, which was one of the drugs required to be put on a label.

"I think that that is clearly the meaning of the law, that is, if a package is shipped in bulk to one who is going to package it, I can't exactly see how the law or the public will be served by a label on the outside of the bulk package. In any event, my finding is that there is insufficient evidence upon which to base a conviction of failure to label the drug, so that the motion in that respect will be sustained. It is not a motion; I guess I overruled the motion.

"The judgment of the court is that there was a violation of count 1 of the information in case No. 14787; and a failure to prove and an acquittal as to count 2 in the same information."

On February 14, 1938, a fine of \$100 was imposed on count 1 of the information.

The defendant, by its attorney, duly perfected an appeal to the United States Circuit Court of Appeals for the Sixth Circuit, where the case was submitted upon brief and argument by respective counsel. On May 5, 1939, that court, in affirming the judgment of the district court, handed down the following opinion:

(Before SIMONS, ALLEN, and ARANT, *Circuit Judges*. Opinion by ALLEN.) "This is an appeal from a conviction under the first count of a criminal information which count charged that appellant, in violation of the Food and Drugs Act, 34 Stat. 763, unlawfully shipped from Cleveland, Ohio, to Oklahoma City, Okla., to the Scotch-Tone Company one drum containing cold tablets, each of which tablets "was represented by Strong, Cobb & Company, Inc., to said Scotch-Tone Company, in letters dated December 7 and December 13, 1932, to contain 1 grain of acetanilid and 0.625 grain of quinine sulfate; whereas, in truth and in fact, each of said tablets contained less than 1 grain, to wit, not more than 0.83 grain of acetanilid, and each of said tablets contained less than 0.625 grain, to wit, not more than 0.56 grain of quinine sulfate. * * *

"The statutes involved are Sections 2 and 8 of Title 21, U. S. C., the pertinent portions of which read as follows:

"Section 2. 'The introduction into any State * * * from any other State * * * of any article of food or drugs which is adulterated or misbranded, within the meaning of sections 1 to 15, inclusive, of this title, is prohibited; and any person who shall ship or deliver for shipment from any State * * * to any other State * * * any such articles so adulterated or misbranded within the meaning of said sections, or any person who shall sell or offer for sale in the District of Columbia or the territories of the United States any such adulterated or misbranded foods, or drugs, * * * shall be guilty of a misdemeanor * * *.'

"For the purposes of the act, an article is deemed to be adulterated:

"Section 8. 'In case of drugs: * * *'

"Second. If its strength or purity fall below the professed standard or quality under which it is sold."

"Appellant pleaded not guilty and waived jury trial. Appellant's motions to dismiss made at the close of the Government's evidence and renewed at the close of all the evidence were sustained as to count 2 of the information (which is therefore not involved in this appeal), and overruled as to count 1.

"The principal contentions are:

"(1) That the shipment was not made in interstate commerce within the meaning of the Food and Drugs Act.

"(2) That appellant made no profession as to the standard and strength of the cold tablets.

"(3) That the record does not present substantial evidence of the guilt of appellant.

"Appellant's first contention, that it is not shown that it made the shipment in question, is wholly without merit. The record presents the invoices and the bill of lading of the shipment, the file copies of appellant's shipping department records, and a statement by appellant's president that he presumed the shipment was delivered to the carrier. A drum bearing a label 'From Strong, Cobb & Co., Inc., Cleveland, Ohio,' and containing about 17,000 cold tablets, was found on the Scotch-Tone premises in Oklahoma City, and the Scotch-Tone manager stated that the shipment had been received. The cold tablets were ordered from Oklahoma City, and unquestionably they were sent from Cleveland to Oklahoma City in interstate commerce. However, appellant maintains that under the doctrine of *United States v. Knowlton Danderine Co.*, 175 Fed. 1022 (C. C. A. 4), there was in contemplation of law no shipment in interstate commerce under the Food and Drugs Act because the tablets were shipped in bulk, to be repackaged by the Scotch-Tone Company before retail distribution. The conclusive answer to appellant's contention is that the doctrine of the *Knowlton Danderine Co.* case has been in effect disapproved in *Hipolite Egg Co. v. United States*, 220 U. S. 45. In that case the *Knowlton Danderine* case was relied on as supporting the proposition that section 10 of the Food and Drugs Act does not apply to an article of food which has not been shipped for sale, but which has been shipped solely for use as raw material in the manufacture of some other product. The court, in discussing the proposition, states that the situations covered by the statute cannot be qualified 'by the purpose of the owner to be a sale,' and holds that the contention of the egg company is untenable (p. 55).

"Upon the second point, it is urged that the letters sent by appellant were not professions of strength or purity within the meaning of the act. The record shows that the Scotch-Tone Co. ordered certain cold tablets to be manufactured by appellant, and that the formula proposed by appellant was agreed upon between the parties. It called for 1 grain of acetanilid and 0.625 grain of quinine sulfate. In the letter of December 13, 1932, appellant instructed the Scotch-Tone Co., 'Advising you as to the label, you should declare 1 grain of Acetanilide and it probably would be well to declare the .625 grains of Quinine Sulphate.'

"Appellant urges that since the tablets were not in existence at the time of this letter, having been manufactured in January 1933, no profession of standard was or could be made with reference to the purity and strength of the ingredients. In support of this contention, it cites decisions which lay down the familiar doctrine that in general fraudulent representations must concern past or existing facts. Cf. *George A. Breon & Co., Inc., v. United States*, 74 Fed. (2d) 4 (C. C. A. 8). But appellant represented after the tablets were manufactured that it was shipping the tablets ordered and manufactured according to the formula, and this representation related back to and incorporated the formula by reference.

"The case is analogous to *Weeks v. United States*, 245 U. S. 618, 620. There the defendant contended that under the statute the question whether an article is misbranded turns entirely upon how it is labeled when it is shipped, regardless of any representations made by the salesman or even the vendor in offering it for sale. But the court rejected this contention and held that the statute covers both the case of misbranding where the article bears a false or misleading label, and the case of misbranding where the article 'is offered for sale under the distinctive name of another article.' There the order, to fill which the shipment was made, was obtained by offering the article for sale in the distinctive name of another article. Here the order, to fill which the shipment was made, was obtained by offering the cold tablets for sale under the representation that each tablet contained 1 grain of acetanilid and 0.625 grain quinine sulfate. The representations in each case were prior to the shipment, and each constitutes a violation of the statute.

"The identity of the contents of the drum is satisfactorily shown. While the drum was opened when samples were taken therefrom and the samples were extracted some 6 months after the drum was received in Oklahoma City, the

cover was on the drum at the time and there was no evidence whatever that other parties than the employees of the Scotch-Tone Co. had access thereto, or that other tablets were mixed with these cold tablets. The manager of the Scotch-Tone Co. says that they had no other cold tablets on hand at that time, and that he did not believe that they had any other chocolate-coated tablets in drums of that size. The fact that the four Government chemists found as to acetanilid and quinine sulfate that these tablets were almost identical in their content and that they contained the ingredients demanded by the formula is substantial evidence that the cold tablets analyzed were from the drum shipped by appellant.

"The analyses of the Government chemists are attacked as incorrect. It is said that since the cold tablets contained a number of other ingredients, such as cascara sagrada, podophyllin, resin jalap, powdered camphor, oleoresin capiscum, and powdered starch, a strong interference necessarily arose which would greatly affect the accuracy of the analyses. However, three of the Government chemists, qualified experts, used methods of analysis which were not identical, and arrived at practically the same result. This is substantial evidence of the correctness of the analyses. The Government chemists all stated that the effect of the interfering factor on the result would be negligible. Moreover, three chemists, two witnesses for the Government and one for appellant, stated in effect that the presence of the interfering elements would tend to make the acetanilid content higher than it actually was. Since the adulteration found was a substantial deficiency in acetanilid and quinine sulfate, the error, if any, resulting from the presence of the interfering elements, would be favorable to appellant rather than prejudicial.

"There is substantial evidence supporting the conclusion of the district court that, with the 10 percent limit of tolerances in weight and medicinal content established by the National Formulary, these deficiencies are too great to avoid violation of the statute. While the formula stated the amount of acetanilid to be 1 grain and the amount of quinine sulfate 0.625 grain, the testimony of the Government experts showed acetanilid, 0.83 grain, 0.827 grain, 0.85 grain, and 0.84 grain. With reference to quinine sulfate the results were 0.56 grain, 0.54 grain, 0.555 grain, and 0.556 grain. Taking the highest result for acetanilid, 0.85 grain, this is a variation of 15 percent, well outside the 10 percent tolerance limits contended for.

"Since the statute (title 21, U.S.C., § 10) requires a specific statement as to content of acetanilid compounds, the intent of the company is not material. The long and reputable service of appellant has caused us to scrutinize this record with great care. We conclude that both on questions of fact and of law, the judgment of the district court was not erroneous.

"Judgment affirmed."

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30627. Misbranding of D-D Disinfectant. U. S. v. Ten 1-Gallon Bottles of D-D Disinfectant. Default decree of condemnation and destruction.
(F. & D. No. 42704. Sample No. 37358-D.)

The labeling of this veterinary product bore false and fraudulent curative and therapeutic claims.

On March 23, 1939, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 gallon bottles of D-D Disinfectant at Lexington, Nebr.; alleging that the article had been shipped in interstate commerce on or about November 19, 1938, by the United States Chemical Co. from Kansas City, Mo.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of a sodium hypochlorite solution.

The article was alleged to be misbranded in that the following statements appearing on the bottle label and in a booklet shipped with it were statements regarding its curative or therapeutic effects and were false or fraudulent: (Bottle) "To * * * Disinfect Cow's Udders and Flanks, spray or wash thoroughly with a solution containing 1 oz. D-D to each gallon of water. * * * To Disinfect the Hands: Use 2 Ounces D-D to a gallon of water. * * * Surface Skin Irritations: * * * Continue treatments until relief is obtained"; (booklet) "Clean premises help to prevent transmission of infectious poultry diseases. * * * D-D properly used, is a dependable and safe preventive for many infectious poultry diseases. * * * Use D-D

for spraying diseased birds at receiving station and immediately after they have been called out. Use D-D for spraying the poultry before sending them to the feeding station. Use D-D as a preventive, for spraying the healthy birds. * * * Roup and Colds. Preventive Measures:—As a preventive measure, * * * Do this for both the sick and the well birds. If cases of Roup appear, separate sick birds from the rest, and give them special treatment. * * * As a further aid in combatting Roup and Colds. * * * This practice helps to prevent the transmission of infectious diseases to baby chicks. * * * To * * * disinfect cows with D-D * * * To * * * Disinfect Cow's Udders and Flanks. * * * This * * * keeps the skin of the udder * * * healthy. * * * In the case of serious infection of any sort, the drinking water of the diseased cattle should be disinfected with double the amount of D-D used in the drinking water of the healthy cattle * * * not only disinfects the skin but also helps to keep the hands in good condition. * * * D-D as an Aid to Disease Prevention and Control * * * second, to prevent and control disease among herds. * * * heals animal tissues."

The label charged that the article was also adulterated and misbranded in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1695 published under that act.

On June 13, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

36628. Misbranding of Vegetrates. U. S. v. Vegetrates, Inc., and Joseph A. Sabol. Plea of guilty by corporation; plea of nolo contendere by individual. Fines: Corporation, \$200; individual, \$80. (F. & D. No. 42571. Sample Nos. 28438-C, 28439-C, 47567-C, 47569-C.)

The labeling of these products bore false and fraudulent curative or therapeutic claims and false and misleading representations regarding their composition.

On November 21, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Vegetrates, Inc., Los Angeles, Calif., and Joseph A. Sabol, president of said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, within the period from on or about September 1 to on or about October 26, 1937, from the State of California into the States of New York and Ohio, of quantities of Vegetrates which were misbranded. The articles were labeled respectively: "Formula No. A-45 [or "H-410," "D-44," or "A-417"]."

Analyses of samples of the articles showed that they consisted essentially of plant material. Each tablet of Formula No. A-45 contained phosphorus compounds equivalent to not more than 0.04 grain of phosphorus, and each tablet of Formula H-410 contained phosphorus compounds equivalent to not more than 0.03 grain of phosphorus. Formula No. D-44 contained mineral constituents representing 0.09 grain of calcium, 0.06 grain of phosphorus, 0.003 grain of iron, 0.16 grain of sodium, 0.04 grain of magnesium, 0.08 grain of sulfur, and 0.11 grain of chlorine per tablet. Formula No. A-417 contained mineral constituents representing 0.10 grain of calcium, 0.04 grain of phosphorus, and 0.003 grain of iron per tablet.

The articles were alleged to be misbranded in that the following statements on their respective labels were false and misleading in that they represented that the articles contained available minerals in sufficient amount to be of significance and importance when consumed in accordance with the directions; whereas the articles if consumed in accordance with the directions, would supply only slight amounts of the minerals named in the labels: (Formula No. A-45) "Compounded from ingredients of vegetable origin only, and are so processed and proportioned as to make available a high content of organic phosphorus. The vegetable ingredients are all prolific sources of organic phosphorus. Directions Adults: Three or four tablets, three times a day"; (Formula No. H-410) "Compounded from ingredients of vegetable origin, selected and grown with particular regard to a high phosphorus content. Directions Adults: 2 to 3 tablets, 3 times a day"; (Formula No. D-44) "Compounded from ingredients of vegetable origin, and are so processed and proportioned as to make available organic calcium, phosphorus, iron, sodium, magnesium, sulphur, and chlorine. Directions Adults: Three or four tablets, three times a day"; and (Formula No. A-417) "Compounded from ingredients

of vegetable origin, grown and selected for their high organic mineral content.
Directions Adults: Three or four tablets, three times a day."

Misbranding was alleged further in that the following statement on the labels of Formulas No. A-45, No. H-410, and No. D-44, falsely and fraudulently represented the curative or therapeutic effects of said articles: "This product is not intended for the treatment of disease but is a food adjuvant and tends toward the building of health." Misbranding was alleged further in that the coined and fanciful names, i. e., "Vegetrate Formula No. A-45," "Vegetrate Formula No. H-410," "Vegetrate Formula No. D-44," and "Vegetrate Formula No. A-417," appearing on the respective labels of the articles, were devices which falsely and fraudulently represented their curative or therapeutic effects, since the said coined and fanciful names meant to purchasers that the articles were effective, respectively, as treatments for arthritis, high blood pressure, diabetes, and asthma; that said articles had attained such meanings to purchasers as a result of the following facts and circumstances: Booklets entitled "Wrong Diet The Curse of the Age," a supply of which was furnished by the consignor to the consignee and was distributed to customers and prospective customers, contained on page 31 the following statements: "A-45 * * * Arthro-Inflammation (Arthritic)"; "H-410 * * * Blood Pressure (High)"; "D-44 * * * Carbohydrate Tolerance (Diabetic)"; and "A-417 * * * Respiratory Irritations (Asthmatic)." Moreover, the labeling theretofore [1935] used on the respective articles contained the following wording: "Vegetrate Formula No. A-45 The Arthritic"; "Vegetrate Formula No. H-410 A Food Recommended as a Dietary Adjuvant in the Reduction of Hypertension"; "Vegetrate Formula No. D-44 Highly Valuable as a Food Adjuvant for the Diabetic"; and "Vegetrate Formula No. A-417 A Food Concentrate Recommended Highly as a Nutritional Adjuvant in the Dietary Care of the Asthmatic Hay Fever."

On April 27, 1939, a plea of guilty having been entered on behalf of Vegetates, Inc., and a plea of nolo contendere having been entered by Sabol, the court imposed fines of \$200 against the corporation and \$80 against the individual.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30629. Misbranding of hospital cotton. U. S. v. Seven Cases of Hospital Cotton. Default decree of condemnation and destruction. (F. & D. No. 45294. Sample No. 33781-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of the examination, it was found to be contaminated with viable micro-organisms.

On May 9, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of seven cases of hospital cotton at Baltimore, Md.; alleging that the article had been shipped in interstate commerce on or about April 6, 1939, from Columbia, S. C., by New Aseptic Laboratories; and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the label statement "Blue Ribbon Hospital Cotton" was false and misleading since it created the impression that the cotton was of high quality and was suitable for hospital use; whereas it was not of high quality and was not suitable for hospital use in that it was contaminated with viable micro-organisms.

On May 31, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30630. Adulteration and misbranding of prophylactics. U. S. v. 123 Gross of Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 45231. Sample No. 47427-D.)

Samples of this product were found to be defective in that they contained holes.

On April 25, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 123 gross of prophylactics at Baltimore, Md.; alleging that the article had been shipped in interstate commerce on or about February 28 and March 15, 1939, from Akron, Ohio, by Bengor Products Co.; and charging adulteration and misbranding in violation of the

Food and Drugs Act. The article was labeled in part: "Tetratex * * * L. E. Shunk Latex Products, Inc., Akron, Ohio."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements in the labeling were false and misleading: "The Modern Prophylactic * * * for Medical Purposes" and "Guaranteed Five Years Disease Preventative."

On May 17, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30631. Adulteration and misbranding of prophylactics. U. S. v. 72 and 19 Envelopes containing Prophylactics (and 3 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44381, 44382, 44707, 44708. Sample Nos. 29594-D, 29595-D, 45722-D, 45724-D.)

Samples of this product were found to be defective in that they contained holes.

On November 18, 1938, and January 24, 1939, the United States attorneys for the Northern District of Ohio and the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 15 1/4 gross of prophylactics at Akron, Ohio, and 317 1/2 gross of prophylactics at Chicago, Ill.; alleging that the articles had been shipped in interstate commerce within the period from on or about July 15 to on or about December 21, 1938, by W. H. Reed & Co. from Atlanta, Ga.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part variously: "Bachelor Brand," "Crest," "Black and Gold," or "Genuine United Latex."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

The article was alleged to be misbranded in that the following statements in the labeling were false and misleading: (Bachelor brand) "Double Selected * * * Supreme * * * For the prevention of disease"; "Made from the choicest grade of materials obtainable * * * represent the highest quality of Goldbeaters * * * for the prevention of contagious diseases * * * The merchandise which you will find in this package is made of the very best material"; (Crest brand) "Made from the choicest grade of materials obtainable * * * represent the highest quality of Goldbeaters * * * For the prevention of contagious diseases * * * For the prevention of disease"; (United Latex) "Genuine United Latex Prophylactics * * * For Prevention of Disease"; (Black and Gold) "Used For the Prevention of Disease."

On March 14 and April 7 and 10, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30632. Adulteration and misbranding of prophylactics. U. S. v. Seven Gross Prophylactics (and four other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 44804, 44805, 45191, 45192, 45193. Sample Nos. 44808-D, 44809-D, 45165-D, 45166-D, 45167-D.)

Samples of this product were found to be defective in that they contained holes.

On or about February 9 and May 17, 1939, the United States attorneys for the Western District of North Carolina and the Southern District of Florida, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 11 1/12 gross of prophylactics at Morganton, N. C., and 103 1/4 dozen prophylactics in various lots at La Belle, Punta Gorda, and Arcadia, Fla.; alleging that the article had been shipped in interstate commerce within the period from on or about January 11 to on or about March 24, 1939, by A. G. Vining from Atlanta, Ga.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Queen-Tex" or "Pro-Medico."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

It was alleged to be misbranded in that the following statements appearing on the carton were false and misleading: (Queen-Tex) "Disease Preventative"

and "Guaranteed 5 Years"; (Pro-Medico) "Tested," "For Medical Purposes Guaranteed Five Years," and "Triple Air Tested."

On April 8 and May 15, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30633. Adulteration and misbranding of prophylactics. U. S. v. 37 Gross of Prophylactics. Default decree of condemnation and destruction. (F. & D. No. 44733. Sample Nos. 45732-D, 45733-D.)

Samples of this product were found to be defective in that they contained holes.

On January 27, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 37 gross of prophylactics at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about January 5, 1939, from Akron, Ohio, by Killashun Sales Division; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, "Liquid Latex."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements appearing in the labeling were false and misleading: "Guaranteed Five Years" and "For Prevention of Disease."

On March 14, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30634. Adulteration and misbranding of prophylactics. U. S. v. 300 Gross of Prophylactics. Consent decree of condemnation and destruction. (F. & D. No. 44960. Sample No. 45767-D.)

Samples of this product were found to be defective in that they contained holes.

On March 10, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 gross of prophylactics at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about January 24, 1939, from New York, N. Y., by Standard Latex Products Corporation; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the statements "Pro-Tek" and "Pro-Tek Prophylactic," appearing in the labeling, were false and misleading.

On March 30, 1939, the consignee having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30635. Adulteration and misbranding of prophylactics. U. S. v. 4 1/6 Gross and 2 1/2 Gross of Prophylactics. Default decrees of condemnation and destruction. (F. & D. Nos. 44904, 45020. Sample Nos. 38865-D, 50119-D.)

Samples of this product were found to be defective in that they contained holes.

On February 24 and March 4, 1939, the United States attorneys for the Eastern District of Missouri and the Southern District of Texas, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 4 1/6 gross of prophylactics at St. Louis, Mo., and 2 1/2 gross of prophylactics at Houston, Tex.; alleging that the article had been shipped in interstate commerce on or about January 27 and February 4, 1939, from Chicago, Ill., by Frank G. Karg; and charging adulteration and misbranding in violation of the Food and Drugs Act. A portion was labeled in part "Pall Mall."

The article was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the label statements, "Made From The Highest Grade Materials Obtainable * * * For Prevention of Disease," were false and misleading.

On April 13 and 14, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

3063C. Adulteration and misbranding of prophylactics. U. S. v. 17 Dozen Prophylactics (and 2 other seizure actions against the same product). Default decree of condemnation and destruction. (F. & D. Nos. 44558, 44777, 45247. Sample Nos. 29420-D, 43177-D, 45726-D, 45753-D.)

Samples of this product were found to be defective in that they contained holes.

On December 21, 1938, February 6, and April 29, 1939, the United States attorneys for the Northern District of Ohio, the Northern District of Illinois, and the Western District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 17 dozen prophylactics at Cleveland, Ohio, 12½ gross of prophylactics at Chicago, Ill., and 1½ gross of prophylactics at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce within the period from on or about November 21, 1938, to on or about January 18, 1939, by Youngs Rubber Corporation from New York, N. Y.; and charging adulteration with respect to two of the shipments, and adulteration and misbranding with respect to one shipment, in violation of the Food and Drugs Act. The article was labeled in part "Naturalamb Skins."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

One shipment was alleged to be misbranded in that the statement "For Prevention of Disease," stamped on the article, was false and misleading.

On March 14, April 6, and May 31, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30637. Misbranding of gauze bandages. U. S. v. 48 Dozen and 120 Dozen Gauze Bandages. Default decree of condemnation and destruction. (F. & D. No. 45422. Sample Nos. 51256-D, 51257-D.)

This product, which had been shipped in interstate commerce, and remained unsold and in the original packages at the time of examination, was found to be contaminated with viable micro-organisms.

On May 26, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 168 dozen packages of gauze bandage at Philadelphia, Pa.; alleging that the article had been shipped on or about December 27, 1938, and April 12, 1939, by the Meditex Supply Co. from New York, N. Y.; and charging misbranding in violation of the Food and Drugs Act.

Misbranding was alleged in that the statement "Doctors and Nurses" and the design of a nurse and a cross, appearing on the labels, were false and misleading since they created the impression that the article was sterile and safe for use; whereas it was not sterile but was contaminated with viable micro-organisms.

On June 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30638. Misbranding of Oxylin Greaseless Ointment. U. S. v. 14 Jars and 25 Jars of Oxylin Greaseless Ointment. Default decree of condemnation and destruction. (F. & D. No. 44623. Sample Nos. 27189-D, 27190-D.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On January 7, 1939, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of fourteen 2-ounce jars and twenty-five 1-ounce jars of Oxylin Greaseless Ointment at Binghamton, N. Y.; alleging that the article had been shipped in interstate commerce within the period from on or about September 17, to on or about October 30, 1936, by Evons Laboratories, Drexel Hill, Pa.; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of small amounts of oxyquinoline sulfate, ethyl aminobenzoate, camphor, menthol, and eucalyptol in a base of glycerin and stearates.

The article was alleged to be misbranded in that the following statements on the labeling regarding its curative and therapeutic effects were false and fraudulent: (Bottle) "Recommended for relief of skin irritations due to external causes, * * * burns * * * cosmetic skin, textile and leather infections, * * * sore * * * feet * * * gum massage for sore mouth * * * reduces danger of infection"; (circular) "Skin Poisons * * * Silk and Dye Poisons * * * Leg Sores * * * Cosmetic Skin * * * Bleeding Gums, Sore Mouth * * * Hay Fever, Sinus Infection * * * possesses remarkable properties for prompt relief and permanent results in treatment of skin and membrane difficulties. * * * promotes rapid healing generally without a scar * * * For larger burns and scalds * * * Eczema, Impetigo * * * Be patient in chronic cases, remember it takes time to be really effective. * * * your best protection against a possible infection. * * * Dye, Leather and Textile Poisons. This form of skin poison is very prevalent among workers in silk and textile mills, attacking the hands and spreading to other portions of the body. This disease is known as a fungoid infection. Most cases respond to Oxylin Ointment alone. For severe conditions, treat as follows: * * * seeing that the solution reaches all infected portions. * * * Hay Fever * * * [in foreign languages] * * * dry eczema, eruptions * * *. In serious cases."

On May 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30639. Adulteration and misbranding of S-A Antiseptic Surgical Dressing. U. S. v. 15 Dozen Packages of S-A Antiseptic Surgical Dressing. Default decree of condemnation and destruction. (F. & D. No. 45351. Sample No. 47446-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be contaminated with viable micro-organisms. Its label falsely represented that it was sterile and also bore false and misleading representations regarding its antiseptic properties.

On May 17, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 dozen packages of S-A Antiseptic Surgical Dressing at Tyrone, Pa.; alleging that the article had been shipped on or about February 28 and April 4, 1939, by the Antiseptic Products Manufacturing Co. from Baltimore, Md.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that its purity fell below the professed standard or quality under which it was sold, (carton) "Antiseptic Surgical Dressing * * * Antiseptic Gauze Sterile" and (circular) "Sterile Antiseptic," since it was not sterile and was not an antiseptic, but was contaminated with viable micro-organisms.

It was alleged to be misbranded in that the following statements borne on the carton, "The Antiseptic Surgical Dressing for all purposes * * * Antiseptic," "A complete Antiseptic Dressing * * * Sterile Antiseptic. Directions for use: Cut sufficient composite to encircle member Gauze necessary only with severe bleeding * * * The use of any other^o antiseptic is unnecessary with S-A. Best results are obtained without their use," and "Conforms to U. S. Gov't. standards for antiseptic products," and statements of like import on a display carton and in a circular accompanying the article were false and misleading when applied to the said article, which was not sterile and was not an antiseptic but which was contaminated with viable micro-organisms.

On June 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30640. Misbranding of San-O-Sen Antiseptic Spray. U. S. v. Palustrepine, Inc. Plea of guilty. Fine, \$100 and costs. (F. & D. No. 42558. Sample No. 8747-D.)

The labeling of this product bore false and fraudulent representations regarding its curative and therapeutic effects.

On August 31, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Palustrepine, Inc., Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended, within the period from on or about September 17 to on or about November 2, 1937, from the State of Illinois into the State of Michigan, of a quantity of San-O-Sen Antiseptic Spray that was misbranded. The article was labeled in part: "San-O-Sen Laboratories * * * Chicago."

Analysis showed that the article consisted essentially of water, pine oil, soap, and a small quantity of glycerin.

Misbranding was alleged in that certain statements, designs, and devices regarding the therapeutic and curative effects of the article, borne on the bottle labels, falsely and fraudulently represented that it was effective as an antiseptic spray for skin irritations.

The information charged that the article was also adulterated and misbranded in violation of the Insecticide Act of 1910, reported in notice of judgment No. 1690 published under that act.

On April 11, 1939, a plea of guilty having been entered, the court imposed a fine of \$100 and costs for violation of both acts.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30641. Misbranding of Vegetrates. U. S. v. Vegetrates, Inc., E. Billy Hamburg, and Joseph A. Sabol. Plea of guilty by corporation; pleas of *nolo contendere* by individuals. Fines: Corporation, \$150; individuals, \$60 each. (F. & D. No. 40791. Sample Nos. 15184-C, 15186-C, 36708-C, 38613-C.)

The labeling of these products bore false and fraudulent curative and therapeutic claims and false and misleading representations regarding their composition.

On July 25, 1938, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Vegetrates, Inc., Los Angeles, Calif., and E. Billy Hamburg and Joseph A. Sabol, president and vice-president, respectively, of said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, within the period from on or about May 5 to on or about June 29, 1937, from the State of California into the States of Ohio, New York, and Illinois of quantities of Vegetrates which were misbranded. The articles were labeled respectively: "Formula No. D-44 [or "H-410" or "A-417"]."

Analyses of samples showed that Formula D-44 consisted essentially of dried vegetable material including tomato, each tablet representing approximately 0.03 grain of calcium, 0.05 grain of phosphorus, 0.003 grain of iron, 0.1 grain of sodium, 0.04 grain of magnesium, 0.05 grain of sulfur, and 0.12 grain of chlorine; that Formula No. H-410 consisted essentially of material derived from vegetables, including leafy vegetables and garlic, each tablet containing phosphorus compounds corresponding to a total of 0.12 grain of phosphorus; and that Formula No. A-417 consisted essentially of dried vegetable material, each tablet representing 0.002 grain of iron, 0.09 grain of calcium, and 0.03 grain of phosphorus.

The articles were alleged to be misbranded in that the following statements on their respective labels were false and misleading, since the said statements represented that the articles when consumed according to directions would supply significant and important amounts of certain minerals; whereas the articles, if consumed in accordance with the said directions, would supply only slight amounts of the minerals named: (Formula No. D-44) "Vegetrate Formula No. D-44 is composed of the concentrates of raw vegetables; are so processed and proportioned as to make available organic calcium, phosphorus, iron, sodium, magnesium, sulphur and chlorine. Directions Adults: Three or four tablets, three times a day"; (Formula No. H-410) "Composed of the concentrates of vegetables, selected and grown with particular regard to a high phosphorus content. Directions Adults: Two to three tablets, three times a day"; and (Formula No. A-417) "The actual breakage of the cellulose cells make available organic iron, calcium, and phosphorus. Directions Adults: Three or four tablets, three times a day." Additional misbranding of Formula No. H-410 was alleged in that the statement "Garlic Tablets," on the label, was false and misleading, since it represented that the sole component of the article was wholly derived from garlic; whereas the entire composition of the article was not wholly so derived.

Misbranding was alleged further in that the coined names or symbols, i. e., "Vegetrate Formula No. D-44," "Vegetrate Formula No. H-410," and "Vegetrate

Formula No. A-417," appearing on the respective labels of the articles, were devices which falsely and fraudulently represented their curative or therapeutic effects, since the said coined names or symbols meant to purchasers that the articles were effective medicinally in the treatment of (Formula D-44) diabetes, effective to cause the pancreas to function so as to secrete sufficient insulin to burn up the sugar in the human body and thus to prevent diabetes and to check the progress of that disease, effective to control diabetes in the stage called insipidus, effective to restore normal balance and to increase the secretion of natural insulin by supplying the vital minerals to effectuate such restoration and such balance; (Formula No. H-410) effective medicinally in the treatment of high blood pressure, effective as a vaso-dilator and as a diuretic, and that it was capable of imparting to the human body the full power of two active dietary adjuvants in a concentrated and quickly available form; effective medicinally in the treatment of asthma and hay fever, and that it was capable of furnishing essential, selected organic minerals necessary in maintaining a balance of alkaline reserve; and such names or symbols had attained such meanings to purchasers as a result of the following facts and circumstances: booklets entitled "Wrong Diet The Curse of the Age," a supply of which was furnished by the consignor to the consignee and was distributed to customers and prospective customers, contained on page 31 the following statements: "D-44 * * * Carbohydrate Tolerance (Diabetic)," "H-410 Blood Pressure (High)," and "A-417 * * * Respiratory Irritation (Asthmatic)"; and said booklets also contained the above-mentioned claims regarding the curative and therapeutic effects of the respective articles. Moreover, the labeling theretofore [1935] used on the respective articles contained the following wording: "Vegetrate Formula No. D-44 Highly valuable as a Food Adjuvant for the Diabetic"; "Vegetrate Formula No. H-410 A Food Recommended as a Dietary Adjuvant in the Reduction of Hypertension"; and "Vegetrate Formula No. A-417 A Food Concentrate Recommended Highly as a Nutritional Adjuvant in the Dietary Care of the Asthmatic Hay Fever."

On April 27, 1939, a plea of guilty having been entered on behalf of Vegetrates, Inc., and pleas of nolo contendere having been entered by Hamburg and Sabol, the court imposed fines of \$150 against the corporation and \$60 against each of the individuals.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30642. Adulteration and misbranding of cotton swab applicators. U. S. v. 34 Cartons of Sanitary Cotton Swab Applicators. Default decree of condemnation and destruction. (F. & D. No. 45160. Sample No. 17577-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be contaminated with viable micro-organisms. It was labeled to indicate that it contained a substantial amount of boric acid, whereas it contained but a trace of boric acid.

On April 8, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 34 cartons of cotton swab applicators at Baltimore, Md.; alleging that the article had been shipped on or about February 13, 1939, by Eagle Druggists Supply Co., Inc., from New York, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that the purity of the article fell below the professed quality or standard under which it was sold, namely, (carton) "Made from sterilized absorbent cotton"; whereas it was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the statement on the envelope, "Sanitary applicators * * * (borated)," the statements on the carton, "Sanitary cotton swab applicators," "Made from sterilized absorbent cotton and dipped in boric acid," and "Sanitary cotton swab applicators are approved and recommended by doctors and nurses"; and the designs of a surgeon, a nurse, a man applying an applicator to the mouth of a boy, and of a nurse applying an applicator to the eye of an infant, were false and misleading when applied to the article, which was not sterile and which contained but an inconsequential trace of boric acid.

On April 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30643. Misbranding of Dr. Ranoll's Indian Herb Tablets and Dr. Ranoll's Indian Black Tablets. U. S. v. William H. Suter, trading as the Suter Chemical Co. Plea of guilty. Fine, \$75 and costs and probation for 1 year. (F. & D. No. 42573. Sample Nos. 1421-D, 17123-D, 17124-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims and other misrepresentations.

On September 27, 1938, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against William H. Suter, trading as the Suter Chemical Co., Altoona, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about July 14, 1937, and February 2, 1938, from the State of Pennsylvania into the State of Maryland, of quantities of the above-named drug preparations which were misbranded.

Analyses showed that the herb tablets consisted essentially of aloe, podophyllum, gentian, and capsicum, with coating materials; and that the black tablets consisted essentially of methenamine, potassium nitrate, oil of juniper, and plant drugs including buchu, uva ursi, podophyllum, and an emedin-bearing drug.

Both products were alleged to be misbranded in that the statements, "Dr. Ranoll's Indian Herb Tablets," "Dr. Ranoll's Indian Black Tablets," and "Guaranteed to comply with all the requirements of the Federal Food and Drug Act," borne on the box label and in a circular shipped with the articles, were false and misleading in that they represented that the composition of the articles was in accordance with a formula of Indian conception and that they were neither adulterated nor misbranded within the meaning of the Food and Drugs Act; whereas the composition of the articles was not in accordance with a formula of Indian conception and the articles were misbranded in violation of said act.

The herb tablets were alleged to be misbranded further in that certain statements appearing in the labeling falsely and fraudulently represented that the article was effective to cure diseases of the stomach, liver, and bowels, to cure indigestion, and to cause the stomach, liver, and bowels to discharge their respective functions regularly and normally; effective as a blood and liver medicament, as a preventive of constipation through direct action upon the liver; effective to produce a flow of bile, to cleanse the liver through removal of poisonous matter, to prevent the food from becoming sour, to prevent stomach gas and sour stomach, to regulate the liver and prevent it from becoming sluggish, to prevent the arising of conditions in the liver that might be causative of typhoid, appendicitis, piles, etc., to cure sick headache, coated tongue, irregular bowels, and to prevent brown liver spots from showing in pimples on the face; and that it would be assimilable quickly by the liver.

The black tablets were alleged to be misbranded further in that certain statements in the labeling regarding their curative or therapeutic effects falsely and fraudulently represented that they were effective to cure weak kidneys, inflammation of the bladder, backache, and that condition of the urinary and related organs of children that cause bed-wetting; effective to cure diseases of the kidneys and of the bladder; effective as a relief for weak kidneys, inflammation of the bladder, backache, and that condition of the urinary and related organs of children that cause bed-wetting; effective to invigorate and strengthen weak kidneys and remove a cause of pains in the back, scanty urine, too frequent urination, depressed and tired feeling, restlessness at night, pain in the groins, irritability, aching limbs, continuous thirst, burning sensation, backache or weak back, irritation of the bladder, lumbago, pain in the head, pain across the kidneys, pain shooting through the limbs like rheumatism, Bright's disease; and effective to relieve the failure of the kidneys to prevent an accumulation of uric acid in the blood through impaired discharge of the filter functions of the kidneys.

On May 24, 1939, the defendant entered a plea of guilty and was sentenced to pay a fine of \$75 and costs and placed on probation for 1 year.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30644. Misbranding of Benaris. U. S. v. 33 Bottles and 196 Bottles of Benaris. Default decree of condemnation. (F. & D. No. 45083. Sample No. 42283-D.)

The labeling of this product bore false and fraudulent curative and therapeutic claims.

On March 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 33 large bottles and 196 sample-sized bottles of Benaris at Trenton, N. J.; alleging that the article had been shipped in interstate commerce on or about January 27, 1939, by Benaris from Cleveland, Ohio; and charging misbranding in violation of the Food and Drugs Act as amended.

Analysis showed that the article consisted essentially of mineral oil, camphor, and ephedrine.

It was alleged to be misbranded in that the bottle label and circulars shipped with it bore false and fraudulent representations regarding its curative and therapeutic effectiveness in the treatment of coughs, nasal catarrh, sinusitis, and other similar conditions of the nose and throat, bronchitis, sinus congestion, sinus headaches, headaches from alcoholic indulgence, hay fever, rose fever, laryngitis, mouth breathing, sore throat, short breathing, and wheezing from asthma and hay fever, congestions and many other discomforts due to local inflammatory conditions of the nose and throat, influenza, aches and pains in the neck and shoulders, sleeplessness, congestion of the ear drums and middle ear, eye congestion and inflammation, soreness of eyeballs, blurred vision, itching of the eyelids, nose bleeding, pains in the sides and heart, dry nasal catarrh accompanied by foul odors and crusts; effective as a sinus inhalant; effective to maintain easier breathing, to lubricate mucous membranes, to reduce inflammation, to reduce troublesome inflammatory congested state of the nasal mucous membranes, and to cleanse the bronchial tubes of any accumulated mucus that had been causing chest discomfort and coughing; effective to enable the mucus to flow freely through the nostrils without forceful blowing; effective when used by singers and speakers to maintain easier breathing and to cause air cavities to be open, sound, and healthy; effective to produce a normal condition in those suffering from congestion due to drafts, unsuitable climate, strong odors, paints, acids, and perfumes; and effective to preserve and improve the sensitiveness of the membrane.

On April 25, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30645. Adulteration and misbranding of Para-Iodol. U. S. v. Leeds Bio-Chemical Laboratories. Plea of nolo contendere. Fine, \$25. (F. & D. No. 42540. Sample No. 1607-D.)

This product was represented to contain one-half grain of iodine per fluid ounce; whereas it contained less than one-fifth grain of iodine per fluid ounce.

On August 3, 1938, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Leeds Bio-Chemical Laboratories, a corporation, Philadelphia, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act on or about January 5, 1938, from the State of Pennsylvania into the State of Delaware, of a quantity of Para-Iodol which was adulterated and misbranded.

The article was alleged to be adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Contains $\frac{1}{2}$ gr. of Iodine per fluid ounce," since it contained less than one-half grain of iodine per fluid ounce.

Misbranding was alleged in that the label statement "Contains $\frac{1}{2}$ gr. of Iodine per fluid ounce" was false and misleading, since the article contained less than one-half grain of iodine per fluid ounce.

On June 8, 1939, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30646. Misbranding of cotton swab applicators with tongue blades. U. S. v. 75 Cartons of Cotton Swabs and Tongue Blades. Default decree of condemnation and destruction. (F. & D. No. 45257. Sample No. 47279-D.)

This product, which had been shipped in interstate commerce and remained unsold and in the original packages at the time of examination, was found to be contaminated with viable micro-organisms. It was labeled to indicate that it contained an appreciable amount of boric acid, whereas it contained but a trace thereof.

On May 2, 1939, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 75 cartons of cotton swabs and tongue blades at Washington, D. C.; alleging that the article had been shipped

on or about February 2, 1939, by the Woltra Co., Inc., from New York, N. Y.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

Adulteration was alleged in that the purity of the article fell below the professed standard and quality under which it was sold, namely, "Made From Sterilized Absorbent Cotton," since it was not sterile but was contaminated with viable micro-organisms.

Misbranding was alleged in that the statements in the labeling, (envelope) "Sanitary Applicators Boric Acid Dipped Swabs * * * Tongue Blade," (carton) "Sanitary Cotton Swab Applicators with Tongue Blade," "Made From Sterilized Absorbent Cotton and Dipped in Boric Acid," and "Sanitary Cotton Swab Applicators are Approved and Recommended By Doctors and Nurses," and the designs of a surgeon, a nurse, a man applying an applicator to the mouth of a boy, and a nurse applying an applicator to the eye of an infant, were false and misleading when applied to an article that was not sterile but which was contaminated with viable micro-organisms and which contained but a trace of boric acid.

On May 26, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30647. Misbranding of syrup of tar. U. S. v. 171 Bottles of Syrup of Tar with Extract of Cod Liver and Menthol. Default decree of condemnation and destruction. (F. & D. No. 44601. Sample No. 41764-D.)

This product was labeled to create the impression that it contained an appreciable amount of the active constituents of cod-liver oil; whereas it contained only insignificant amounts of vitamins A and D, active constituents of cod-liver oil. Furthermore, it was labeled to create a false impression regarding the identity of its manufacturer and the State of its manufacture.

On December 31, 1938, the United States attorney for the District of Delaware, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 171 bottles of the hereinafter-described product at Wilmington, Del.; alleging that it had been shipped in interstate commerce on or about September 30, 1938, from Philadelphia, Pa., by Merit Laboratories Co.; and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement "with extract of Cod Liver," appearing on the carton and bottle label and the design of a codfish appearing on the carton were false and misleading, since they created the impression that the article contained the active constituents of cod-liver oil; whereas it contained only insignificant proportions of the active constituents of cod-liver oil, i. e., vitamins A and D. A further allegation of misbranding was that the statement "Red Cross Pharmacy * * * 8th & Du Pont Streets Wilmington, Del.," appearing on the carton and bottle label, was false and misleading in that it created the impression that the article was manufactured by the Red Cross Pharmacy in the State of Delaware; whereas it was manufactured by Merit Laboratories Co. in the State of Pennsylvania.

On April 18, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30648. Misbranding of Gordon N-A-C Tablets, Gordon Stock Tonic, Gordon Bag Salve, and Gordon Red Liniment. U. S. v. McConnon & Co. Plea of nolo contendere. Fine, \$65. (F. & D. No. 42532. Sample Nos. 45767-C, 45771-C, 45773-C, 45774-C, 45777-C.)

These products were misbranded because of false and fraudulent curative and therapeutic claims. The Gordon Red Liniment was misbranded further in that it was intended for internal administration but contained carbitol (ethyl ether of diethylene glycol), which is a toxic substance.

On January 24, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against McConnon & Co., a corporation, Winona, Minn., alleging shipment by said company on or about June 8, 1937, from the State of Minnesota into the State of Iowa, of quantities of the above-named drug preparations which were misbranded.

Analyses of samples showed that the N-A-C Tablets consisted essentially of volatile alkaloids (nicotine and arecoline), salts, calomel, and plant material,

together with calcium carbonate and iron oxide; that the Bag Salve consisted essentially of a yellow petrolatum ointment containing a small amount of volatile oil; that the Stock Tonic consisted essentially of charcoal, plant materials, calcium phosphate and carbonate, sodium chloride, bicarbonate, and sulfate, and iron oxide, together with small amounts of nux vomica, capsicum, and potassium iodide; and that the Red Liniment consisted essentially of a small proportion of camphoraceous material and capsicum in a solution of carbitol (ethyl ether of diethylene glycol) and water, colored with a red dye.

The N-A-C Tablets were alleged to be misbranded in that certain statements on the bottle label and in a booklet shipped with the article, regarding its curative and therapeutic effects, falsely and fraudulently represented that it was effective to remove tapeworm strobilae from "all domestic fowls, chickens, and turkeys," and effective as an aid in destroying the tapeworm strobilae in the aforesaid animals; effective to produce bile action and to purge domestic fowls and expel worms destroyed in their bodies; effective to remove tapeworm strobilae from all domestic fowls, chickens and turkeys weighing under 2 pounds and to cause a triple treatment and action in accomplishing such purpose; effective to produce an excessive bile flow that would cause tapeworms and large roundworms to loosen their hold; effective to operate with 100 percent efficiency in destroying worms in the intestinal tract, to protect against unthriftness, ruffled feathers, sagging wings, paleness of the head, droopiness, emaciation, diarrhoea, constipation, blindness, limberneck, lameness, paralysis, and a condition like epilepsy; effective to avert loss of appetite and of flesh, and to prevent conditions that diminish egg laying; and effective to better the physical condition of the fowl.

The Stock Tonic was alleged to be misbranded in that certain statements in the labeling regarding its curative and therapeutic effects falsely and fraudulently represented that it was effective as an ideal conditioner of cows, cattle, horses, mules, sheep, and hogs, as an aid to growth and fattening of cattle, to assist in recovery by cattle from a run-down condition, as a general tonic for milk herd, as an aid to greater pork, beef, mutton, wool, and milk production and better work stock, as an appetizer and digestive aid, as a general tonic for horses and mules that are out of condition and "off-feed," to influence the nervous system, stimulate the breathing centers, improve appetite and digestion, increase the flow of digestive juices; effective as an aid to more complete assimilation of the nutritious essentials in feeds; effective to attain maximum gains and benefits when used in accordance with directions and for the periods indicated, as a properly balanced tonic and conditioner for general stock use; effective as a general tonic and conditioner and as an aid in the growth, fattening, and recovering of cattle from a poor condition; and effective to fatten hogs.

The Bag Salve was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that the article was effective as a treatment of caked bag, noncontagious garget, and swollen quarters affecting cows.

The Red Liniment was alleged to be misbranded in that certain statements in the labeling falsely and fraudulently represented that it was effective in the treatment of casual swellings from congestion affecting the human body, and the bodies of domestic animals and poultry; effective in the treatment of earache, ordinary swellings from congestion, colic, bloat, dislocation, inflammation from simple casual irritations, pain in chest from simple cold or simple throat cold, toothache, cramps when due to gas, casual swellings from congestion, superficial burns and scalds affecting human beings, horses, cattle, sheep, hogs, poultry, and other animals, simple cold in horses, cattle, hogs, and sheep, and garget or inflammation of the udder in cows; and effective in the treatment of simple colds and colic either in man or horses, colts, cattle, calves, hogs, pigs, sheep, lambs, and poultry when due to gas. The Red Liniment was alleged to be misbranded further in that the bottle label bore directions for internal doses of the article in the treatment of diseases of man and other animals, which directions were false and misleading in that they implied that the article could be used without danger or risk; whereas it contained carbitol, i. e., ethyl ether of diethylene glycol, a derivative of diethylene glycol, which is a toxic substance that cannot be taken into the system without risk of causing illness of a serious nature.

On January 24, 1939, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$65.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30649. Adulteration and misbranding of ether U. S. P. 10 (ethyl oxide U. S. P. XI). U. S. v. 27 Cans of Ether U. S. P. 10 (and 4 other seizure actions against the same product). Default decrees of condemnation and destruction. (F. & D. Nos. 45067, 45141, 45222, 45243, 45250, 45251, 45252, Sample Nos. 43477-D, 50197-D, 51423-D, 51424-D, 51426-D, 60417-D, 65666-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. Ten cans were collected from each of the seven shipments. When examined, 51 of the 70 samples were found to contain peroxide; one also contained aldehyde.

On various dates between March 23 and April 29, 1939, the United States attorneys for the Eastern District of Louisiana, District of Connecticut, Northern District of Georgia, Northern District of California, and the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 147 cans of ether in various lots at New Orleans, La., New Haven, Conn., Atlanta, Ga., San Francisco, Calif., and Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce within the period from on or about December 10, 1938, to on or about February 15, 1939, from St. Louis, Mo., New York, N. Y., Rahway, N. J., and Brooklyn, N. Y., by Merck & Co., Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act. On May 11 and 19, 1939, the libels filed in the Eastern District of Louisiana and the Eastern District of Pennsylvania were amended in order to eliminate the allegations that the article was adulterated and misbranded at the time of shipment.

Adulteration was alleged in that the article was sold under names recognized in the United States Pharmacopoeia, namely, ether and ethyl oxide, but differed from the standard of strength, quality, and purity as determined by the tests laid down therein, and its own standard of strength, quality, and purity was not stated on the label. A further allegation of adulteration was that its strength and purity fell below the professed standard and quality under which it was sold, namely, "Ether U. S. P. 10," since the article did not conform to the specifications of the tenth revision of the United States Pharmacopoeia for ether in that it contained peroxide.

Misbranding was alleged in that the statement "Ether U. S. P. 10 * * * (Ethyl Oxide U. S. P. XI)," appearing in the labeling, was false and misleading, since the article did not conform to the specifications of the tenth revision of the pharmacopoeia for ether, nor to those of the eleventh revision for ethyl oxide.

On May 11, 15, and 29, 1939, no claim having been filed, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30650. Adulteration of Equine Tonic Elixir, lobeline sulfate tablets, santonin and calomel tablets, and Thia-Sal, and misbranding of Reek's Capsules and arecoline hydrobromide tablets. U. S. v. Fort Dodge Laboratories, Inc. Plea of guilty. Fine, \$50 and costs. (F. & D. No. 42633, Sample Nos. 15364-D, 15765-D, 15770-D, 24251-D, 24253-D, 24287-D, 24298-D.)

The offense charged in this case was the interstate shipment of quantities of Equine Tonic Elixir, lobeline sulfate tablets, santonin and calomel tablets, and Thia-Sal, that fell below the professed standard under which they were sold in that they were deficient in certain drugs; a lot of Reek's Capsules, some of which contained less and some of which contained more nux vomica than the amount declared; and arecoline hydrobromide tablets which contained arecoline hydrobromide in excess of the amount declared.

On June 13, 1939, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fort Dodge Laboratories, Inc., Fort Dodge, Iowa, alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about March 25, 1937, to on or about February 24, 1938, from the State of Iowa into the States of Nebraska and Indiana, of quantities of the above-named pharmaceuticals which were adulterated or misbranded.

The Equine Tonic Elixir was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, in that each fluid ounce of the article was represented to contain 2 grains of quinine sulfate and 2 grains of arsenous acid; whereas each fluid ounce of the article contained not more than 1.67 grains of quinine sulfate, and not more than 0.23 grain of arsenous acid.

The lobeline sulfate tablets were alleged to be adulterated in that their strength fell below the professed standard and quality under which they were sold, in that each tablet was represented to contain 1 grain of lobeline sulfate; whereas each tablet contained not more than 0.67 grain of lobeline sulfate.

The santonin and calomel tablets were alleged to be adulterated in that their strength and purity fell below the professed standard and quality under which they were sold in that each tablet was represented to contain $\frac{1}{4}$ grain of santonin and $\frac{1}{4}$ grain of calomel; whereas each tablet contained not more than 0.203 grain of santonin and not more than 0.214 grain of calomel.

The Thia-Sal was alleged to be adulterated in that its strength fell below the professed standard and quality under which it was sold, in that each vial of the article was represented to contain 15 grains of thiosinamine; whereas each vial contained not more than 11.19 grains of thiosinamine.

Reek's Capsules were alleged to be misbranded in that the statement "Each Capsule Contains: Nux Vomica 60 grs." borne on the box containing them, was false and misleading in that it represented that each capsule contained 60 grains of nux vomica; whereas some of the capsules contained less than 60 grains, and some of them contained more than 60 grains of nux vomica.

The arecoline hydrobromide tablets were alleged to be misbranded in that the statement "10 H. T. 1 Gr. Arecoline Hydrobromide," borne on the cartons and tubes containing them, was false and misleading in that it represented that each tablet contained 1 grain of arecoline hydrobromide; whereas each tablet contained more than 1 grain, namely, not less than 1.118 grain of arecoline hydrobromide.

On June 13, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 and costs.

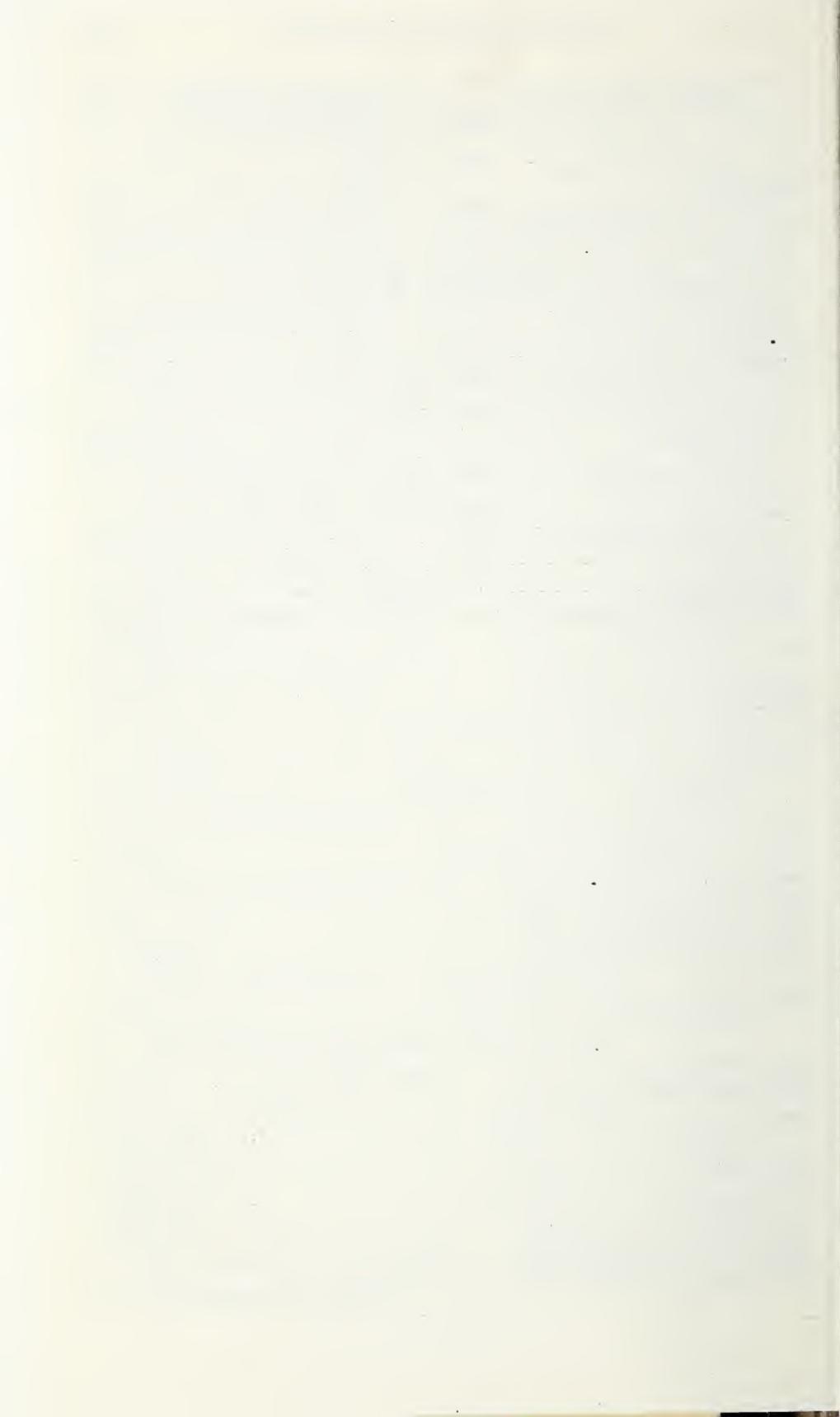
HARRY L. BROWN, *Acting Secretary of Agriculture.*

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N. J., F. D. 30651-30775

Issued December 1939

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

30651-30775

FOODS

[Approved by the Acting Secretary of Agriculture, Washington, D. C., October 6, 1939]

30651. Adulteration of prunes, dried peaches, and dried mixed fruits. U. S. v. 100 Cases of Dried Prunes, etc. Decree of condemnation. Product released under bond for segregation and destruction of unfit portions. (F. & D. Nos. 45308 to 45324, inclusive. Sample Nos. 51261-D to 51278-D, inclusive.)

These products had been shipped in interstate commerce by boat from Alameda, Calif., to Newark, N. J. At that port fire broke out in the hold of the ship and the products were substantially damaged by water. They were taken over by the underwriters and shipped to Philadelphia, Pa., at which place they were examined and were found to be in large part water-soaked and moldy. The shipment from Newark to Philadelphia in its adulterated condition was not made by nor under the direction of the original shipper.

On May 11, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,045 cases of dried fruits remaining in the original unbroken packages at Philadelphia, Pa.; alleging that the articles had been shipped on or about February 14, 1939, from Alameda, Calif., by the California Packing Corporation; and charging adulteration in violation of the Food and Drugs Act. The articles were labeled variously: "Large Size Prunes," "Del Monte Brand Medium size Santa Clara Prunes," "Releo Brand Mixed Fruit," "Gold Bar Brand Prunes Santa Clara," "Ensslen's Santa Clara Prunes," "Samore Brand Peaches," "Del Monte Brand Recleaned Peaches," "Crest Brand Peaches," and "Sun-Kist Brand Extra Fancy Peaches."

Adulteration was alleged with respect to the peaches (Samore brand, Del Monte brand, Crest brand, and Sun-Kist brand) in that water had been mixed and packed with the article so as to reduce or lower its quality and had been substituted in whole or in part for the said article.

Adulteration was alleged with respect to the dried prunes and the mixed fruits of divers brands in that the articles consisted in whole or in part of filthy and decomposed vegetable substances.

On May 19, 1939, T. A. James & Co. having appeared as claimant, judgment of condemnation was entered, and the products were ordered released under bond conditioned that the good and usable portion be separated therefrom and that the unfit portion be destroyed.

HARRY L. BROWN, Acting Secretary of Agriculture.

30652. Adulteration of corn meal. U. S. v. 197 Bags of Corn Meal. Default decree of condemnation and destruction. (F. & D. No. 43840. Sample No. 30613-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On September 17, 1938, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 197 bags of corn meal at Big Spring, Tex.; alleging that the article had been shipped on or about July 29, 1938, from St. Joseph, Mo., by Quaker Oats Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Aunt Jemima White Cream Corn Meal."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30653. Adulteration and misbranding of frozen egg yolks, and misbranding of frozen whole eggs. U. S. v. Nye & Nissen, Inc. Plea of guilty. Fine, \$60. (F. & D. No. 42693. Sample Nos. 18133-D, 18134-D.)

Samples of the frozen egg yolks were found to contain excessive whites and undeclared added sugar. Samples of the frozen whole eggs were found to contain undeclared added sugar.

On March 30, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Nye & Nissen, Inc., San Francisco, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on May 13, 1938, from the State of California into the Territory of Hawaii, of quantities of frozen egg yolks that were adulterated and misbranded and frozen whole eggs that were misbranded.

The frozen egg yolks were alleged to be adulterated in that substances, namely, egg yolk, egg whites, and sugar, had been substituted for a product consisting of egg yolk, which the article purported to be. Misbranding of the frozen egg yolks was alleged in that the statement "Yolks," borne on the cans, was false and misleading since it represented that the article consisted of egg yolk; whereas it did not consist of egg yolk, but did consist in part of excessive egg whites and added sugar; and said statement was borne on the cans so as to deceive and mislead the purchaser.

The frozen whole eggs were alleged to be misbranded in that the statement "Whole," borne on the cans, was false and misleading since it represented that the article consisted entirely of whole eggs; whereas it did not consist of whole eggs, but did consist in part of added sugar; and said statement was borne on the cans so as to deceive and mislead the purchaser.

On May 15, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$60.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30654. Adulteration of shad. U. S. v. 324 Cases of Shad (and 2 similar seizure actions). Consent decrees of condemnation. Product released under bond for segregation and destruction of unfit portion. (F. & D. Nos. 43923, 43924, 44000, 44001, 44002, 44003. Sample Nos. 33979-D, 37081-D, 37082-D.)

Samples of this product were found to be decomposed.

On September 21 and 30, 1938, the United States attorneys for the Eastern and the Western Districts of Virginia, acting upon reports by the Secretary of Agriculture, filed in their respective districts courts three libels praying seizure and condemnation of 802 cases of canned shad at Norfolk, Va., and 650 cases of canned shad at Lynchburg, Va.; alleging that the article had been shipped in interstate commerce on or about August 22 and 26 and September 23, 1938, from Oakland and from San Francisco, Calif., by F. E. Booth Co., Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Booth's Crescent Brand Spring Pack Shad."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On December 14, 1938, and January 31, 1939, C. P. Door having appeared as claimant and having admitted the allegations of the libels, judgments of con-

demnation were entered and the product was ordered released under bond conditioned that the unfit portions be segregated and destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30655. Adulteration of walnut meats. U. S. v. **Sunset Nut Shelling Co. Plea of guilty. Fine, \$5.** (F. & D. No. 42717. Sample Nos. 36080-D, 43223-D to 43226-D, inclusive.)

This product contained an excessive amount of insect-infested, moldy, and rancid nuts.

On May 16, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Sunset Nut Shelling Co., a corporation, San Francisco, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about October 18, 26, and 28, 1938, from the State of California into the States of Washington and Oregon, of quantities of walnut meats which were adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On May 17, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$5.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30656. Adulteration of crab meat. U. S. v. **Spence Bros., Inc. Plea of guilty. Fine, \$40.** (F. & D. No. 42639. Sample Nos. 34268-D, 34269-D, 34270-D.)

Samples of this product were found to contain evidence of the presence of filth.

On April 18, 1939, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Spence Bros., Inc., Cape Charles, Va., alleging shipment by said defendant in violation of the Food and Drugs Act on or about August 10, 1938, from the State of Virginia into the State of Pennsylvania of quantities of crab meat which was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 1, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$40.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30657. Adulteration of canned grapefruit. U. S. v. **300 Cases of Canned Grapefruit. Consent decree of condemnation. Product ordered released under bond.** (F. & D. No. 45232. Sample No. 50980-D.)

Samples of this product were found to be undergoing yeasty fermentation.

On April 25, 1939, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 300 cases of canned grapefruit at Seattle, Wash.; alleging that the article had been shipped in interstate commerce on or about February 15, 1939, from Tampa, Fla., by H. A. Shaver, Inc., of Lakeland, Fla.; and charging adulteration in violation of the Food and Drugs Act.. The article was labeled in part: "Floridan Brand Grape Fruit in Syrup."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On June 12, 1939, L. D. Bernstein, trading as National Distributors, Seattle, Wash., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it not be disposed of contrary to law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30658. Adulteration and misbranding of relish. U. S. v. **29 Bottles of Relish. Default decree of condemnation and destruction.** (F. & D. No. 44933. Sample No. 42118-D.)

This product contained saccharin, which had been substituted in part for sugar as the sweetening agent. Moreover, its label failed to bear a correct declaration of the quantity of contents since it was contained in gallon-sized bottles labeled "1 Quart."

On March 2, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court

a libel praying seizure and condemnation of 29 bottles of relish at Atlantic City, N. J.; alleging that the article had been shipped in interstate commerce on or about August 29, 1938, from Philadelphia, Pa., by Da Costa & Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Da Costa Brand Sweet India Relish."

It was alleged to be adulterated in that a substance containing added saccharin had been substituted wholly or in part for the article. Further adulteration was alleged in that it contained an added deleterious ingredient, saccharin, which might have rendered it injurious to health.

Misbranding was alleged in that the label statements, "Contains pickles, pimentos, spices and sugar" and "Contents 1 Quart," were false and misleading and tended to deceive and mislead the purchaser when applied to an article that contained saccharin and the quantity of the contents of which was more than 1 quart. Further misbranding was alleged in that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On June 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30659. Adulteration of canned cherries. U. S. v. 158 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. & D. No. 45355. Sample Nos. 34872-D, 39879-D.)

This product was in part decomposed.

On May 16, 1939, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 158 cases of canned cherries at Washington, D. C.; alleging that the article had been shipped in interstate commerce on or about March 27, 1939, from Seattle, Wash., by Taylor-Edwards Warehouse & Transfer Co., Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Delectas Royal Anne Cherries. * * * Packed by Olympia Canning Company, Olympia, Wash."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On June 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30660. Adulteration of butter. U. S. v. Eight Tubs of Butter. Consent decree of condemnation. Product ordered released under bond. (F. & D. No. 45459. Sample No. 51587-D.)

This product contained less than 80 percent of milk fat.

On May 29, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight tubs of butter at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about May 17, 1939, from Maynard, Minn., by Maynard Cooperative Creamery Association; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 13, 1939, C. J. Heyd & Co., Philadelphia, Pa., having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it not be disposed of contrary to law and that it be reconditioned under the supervision of this Department so as to conform to the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30661. Adulteration of buckwheat flour. U. S. v. 30 Bags of Flour. Default decree of condemnation and destruction. (F. & D. No. 44791. Sample No. 32371-D.)

This product contained atropine alkaloids, the source of which was probably Jimsonweed seed or similar weed seeds in the buckwheat.

On February 9, 1939, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 bags of flour at Peoria, Ill.; alleging that the article had been shipped in interstate commerce on or about October 14, 1937, and November 17, 1938, from Monticello, Ind., by Loughry Bros. Milling & Grain Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Monticello Mills Pure Buckwheat Flour."

It was alleged to be adulterated in that it contained atropine alkaloids, added deleterious ingredients, which might have rendered it injurious to health.

On June 7, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30662. Adulteration of oysters. U. S. v. 50 Cans of Oysters. Default decree of condemnation and destruction. (F. & D. No. 44694. Sample No. 58810-D.)

This product contained added water.

On January 19, 1939, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cans of oysters at Huntington, W. Va.; alleging that the article had been shipped in interstate commerce on or about January 9, 1939, from Crisfield, Md., by George A. Christy & Son; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that water had been mixed and packed with it so as to reduce or lower its quality. Adulteration was alleged further in that water had been substituted wholly or in part for the article.

On May 9, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30663. Adulteration of oysters. U. S. v. 118 Cans of Oysters. Default decree of condemnation and destruction. (F. & D. No. 44693. Sample No. 58814-D.)

This product contained added water.

On January 19, 1939, the United States attorney for the Southern District of West Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 118 cans of oysters at Huntington, W. Va.; alleging that the article had been shipped in interstate commerce on or about January 9, 1939, from Crisfield, Md., by W. E. Ward Oyster Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part, "Extra Standards."

It was alleged to be adulterated in that water had been mixed and packed with it so as to reduce or lower its quality, and in that water had been substituted wholly or in part for oysters.

On May 9, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30664. Adulteration of butter. U. S. v. 10 Boxes of Butter. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 45379. Sample No. 51504-D.)

This product contained less than 80 percent of milk fat.

On May 11, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 boxes of butter at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about May 3, 1939, from Falls City, Nebr., by Falls City Creamery Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On May 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution after removal of the wrappers and cartons.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30665. Adulteration of raisins. U. S. v. 272 Cartons of Raisins. Consent decree of condemnation. Product released under bond for disposal as stock feed. (F. & D. No. 44651. Sample No. 36886-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On January 10, 1939, the United States attorney for the Eastern District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 272 cartons of raisins at Muskogee, Okla.; alleging that the article had been shipped in interstate commerce on or about September 5, 1938, from Sultana, Calif., by West Coast Growers & Packers; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On May 6, 1939, Bonicelli Wholesale Grocery Co., Muskogee, Okla., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered converted into stock feed under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30666. Adulteration of frozen perch. U. S. v. 43 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45277. Sample No. 52503-D.)

This product contained parasitic worms.

On May 8, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 43 boxes of perch fillets at Buffalo, N. Y.; alleging that the article had been shipped in interstate commerce on or about April 22, 1939, from Boston, Mass., by Arnold & Winsor Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30667. Misbranding of horseradish. U. S. v. 41 Cases of Horseradish. Default decree of condemnation and destruction. (F. & D. No. 44264. Sample No. 34510-D.)

This product was short of the declared weight.

On November 2, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 cases of horseradish at Richmond, Va.; alleging that the article had been shipped in interstate commerce on or about September 28, 1938, from Elmira, N. Y., by Harry Taylor; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Carpel's Tasty Kind Pure Horse Radish * * * Carpel Corporation Distributors."

Misbranding was alleged in that the statement "Contains 6 Oz. Avd." borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to an article that was short weight. It was alleged to be misbranded in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On May 31, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30668. Adulteration of perch fillets. U. S. v. 58 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 44940. Sample No. 35026-D.)

This product contained parasitic worms.

On March 2, 1939, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 58 boxes of perch fillets at Norfolk, Va.; alleging that the article had been shipped in interstate commerce

on or about January 30, 1939, from Boston, Mass., by Cape Fish Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 23, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30669. Adulteration and misbranding of condensed raspberry juice. U. S. v. 12 Bottles and 6 Bottles of Raspberry Juice Condensed. Default decree of condemnation and destruction. (F. & D. Nos. 43296, 43297. Sample Nos. 22332-D, 22335-D.)

This product contained added sulfur dioxide and an added synthetic flavoring chemical of an aldehydic or ketonic nature.

On August 18, 1938, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 bottles of condensed raspberry juice at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about June 21 and July 15, 1938, from Long Island City, N. Y., by Polak's Frutal Works, Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Made in Holland Polak's Frutal Works Amersfoort Holland * * * Frutal Brand Raspberry Juice Condensed."

It was alleged to be adulterated in that a substance containing a synthetic flavoring chemical and added sulfur dioxide had been substituted wholly or in part for the article.

Misbranding was alleged in that the label statement "Raspberry Juice" was false and misleading and tended to deceive or mislead the purchaser when applied to an article that was synthetically flavored and which contained added sulfur dioxide. Further misbranding was alleged in that the article was an imitation of and was offered for sale under the distinctive name of another article.

On May 3, 1939, Polak's Frutal Works, Inc., having withdrawn its claim and answer, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30670. Misbranding of butter. U. S. v. 460 Pounds and 210 Pounds of Butter. Default decrees of condemnation. Product released under bond. (F. & D. Nos. 45499, 45500. Sample Nos. 41292-D, 41293-D.)

This product contained less than 80 percent of milk fat.

On May 24, 1939, the United States attorney for the District of Wyoming, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 670 pounds of butter at Cheyenne, Wyo.; alleging that the article had been shipped in interstate commerce on or about May 10, 1939, from Gering, Nebr., in part in the name of the North Platte Valley Non-Stock Co-Operative Cheese Co., and in part in the name of the North Platte Valley Non-Stock Co-Operative Association; and charging misbranding in violation of the Food and Drugs Act. Both lots of the article were labeled in part: "Beauty Girl Quality Butter. * * * North Platte Valley Non-Stock Co-Operative Cheese Co. Gering Nebr."

It was alleged to be misbranded in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 6, 1939, the shipper having appeared as claimant and having consented to the entry of decrees, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it should not be disposed of until brought into compliance with the law under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30671. Adulteration of red perch fillets. U. S. v. 67 Boxes of Red Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45387. Sample No. 52408-D.)

This product contained parasitic worms.

On May 23, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 67 boxes of red

perch fillets at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce on or about May 5, 1939, from Boston, Mass., by T. & J. Busalacchi Bros.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On June 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30672. Adulteration of tullibees. U. S. v. 106 Boxes of Frozen Tullibees. Default decree of condemnation and destruction. (F. & D. No. 45327. Sample No. 52402-D.)

This product contained parasitic worms.

On May 12, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 106 boxes of frozen tullibees at Pittsburgh, Pa.; alleging that the article had been shipped in interstate commerce on or about February 16, 1939, from Green Bay, Wis., by Midwest Fish Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On June 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30673. Adulteration of grayling trout. U. S. v. 2 Boxes and 14 Boxes of Grayling Trout. Default decree of condemnation and destruction. (F. & D. Nos 45214, 45215. Sample No. 48312-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On April 19, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court two libels praying seizure and condemnation of 16 boxes of grayling trout at Minneapolis, Minn.; alleging that the article had been shipped on or about February 6, 1939, from Seattle, Wash., by the Washington Fish & Oyster Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid animal substance.

On June 15, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30674. Adulteration of tullibees. U. S. v. 18 Boxes of Tullibees. Default decree of condemnation and destruction. (F. & D. No. 45328. Sample No. 52404-D.)

This product contained parasitic worms.

On May 12, 1939, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 boxes of tullibees at Pittsburgh, Pa.; alleging that the article had been shipped from Winnipeg, Canada, by Keystone Fisheries on or about March 21, 1939; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On June 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30675. Adulteration of red perch fillets. U. S. v. 342 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45151. Sample No. 65577-D.)

This product contained parasitic worms.

On April 4, 1939, the United States attorney for the Western District of Kentucky, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 342 boxes of perch

fillets at Louisville, Ky.; alleging that the article had been shipped in interstate commerce on or about March 13, 1939, from New Salisbury, Ind., by Arthur E. Wenning; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On May 22, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30676. Adulteration and misbranding of horseradish. U. S. v. **New Jersey Empire Pickle Works, Inc.** Plea of guilty. Fine, \$850; payment suspended on \$800 and defendant placed on probation for 6 months. (F. & D. No. 42654. Sample Nos. 25475-D, 25986-D, 25987-D, 25988-D, 26310-D.)

This product consisted in whole or in part of ground parsnip with little, if any, horseradish.

On June 2, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against New Jersey Empire Pickle Works, Inc., Newark, N. J., alleging shipment by said defendant in violation of the Food and Drugs Act, within the period from on or about March 30, 1938, to on or about June 7, 1938, from the State of New Jersey into the States of Connecticut and New York, of quantities of food represented to be horseradish. One lot of the article, which was unlabeled but was invoiced as horseradish, was alleged to be adulterated. Other lots of the article, which were labeled in part, "Boyd Brand Prepared Horse Radish," were alleged to be adulterated and misbranded.

Adulteration was alleged in that a substance consisting principally of ground parsnip and containing little, if any, horseradish, had been substituted in whole or in part for horseradish, which it purported to be.

The article, with the exception of one lot, was alleged to be misbranded in that the label statement "Horse Radish" was false and misleading, and in that it was labeled so as to deceive and mislead the purchaser, since such statement represented that it consisted wholly of horseradish; whereas it did not consist wholly of horseradish but consisted in large part of ground parsnip. Further misbranding was alleged in that the article was a product consisting wholly or in part of ground parsnip and containing little, if any, horseradish, prepared in imitation of horseradish, and offered for sale and sold under the distinctive name of another article, namely, horseradish.

On June 26, 1939, a plea of guilty was entered on behalf of the defendant, and the court imposed a fine of \$850, but suspended payment of \$800 of that amount and placed the defendant on probation for 6 months.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30677. Adulteration of canned cherries. U. S. v. **100 Cases of Canned Cherries.** Default decree of condemnation and destruction. (F. & D. No. 43031. Sample Nos. 3412-D, 23337-D.)

This product contained worms.

On July 11, 1938, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cases of canned cherries at Phoenix, Ariz., shipped on or about May 21, 1938; alleging that the article had been shipped in interstate commerce from Puyallup, Wash., by Pacific Northwest Canning Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Famous Puyallup Brand Water Pack Pitted Red Sour Cherries."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On December 27, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30678. Adulteration of rye flour and soybean flour. U. S. v. **44 Bags of Flour.** Default decree of condemnation and destruction. (F. & D. Nos. 45330, 45331, 45332. Sample Nos. 43695-D, 43696-D, 43697-D.)

These products had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination they were found to be insect-infested.

On May 12, 1939, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 bags of rye flour and 14 bags of soybean flour at Reno, Nev.; alleging that the articles had been shipped in part on or about May 10, 1938, from Ogden, Utah, by Globe Grain & Milling Co., and in part on or about November 2 and December 8, 1938, and March 31 and April 21, 1939, from San Francisco, Calif., by Coast Dakota Flour Co.; and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Pillsbury's Artex Dark Rye Flour Pillsbury Flour Mills Company Minneapolis, Minn." or "Genuine Special Soya Blended Flour."

They were alleged to be adulterated in that they consisted in whole or in part of filthy vegetable substances since they were insect-infested.

On June 22, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30679. Adulteration of frozen fish. U. S. v. 205 Boxes and 56 Boxes of Frozen Pollack Fillets. Default decree of condemnation and destruction. (F. & D. Nos. 45348, 45349. Sample Nos. 62704-D, 62705-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was in whole or in part decomposed.

On or about May 15, 1939, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 261 boxes of frozen fish at Houston, Tex.; alleging that the article had been shipped on or about April 22, 1939, by O'Donnell-Usen Fisheries from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Fish of the Day Ocean Fillets."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On June 24, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30680. Adulteration of crab meat. U. S. v. 1,095 Pounds of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 45503. Sample No. 62780-D.)

This product contained evidence of the presence of filth.

On June 8, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 695 pounds of straight picked crab meat and 400 pounds of claw crab meat at Baltimore, Md.; alleging that the article had been shipped in interstate commerce on or about June 5, 1939, from Harvey, La., by Ed Martin Sea Food Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 30, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30681. Adulteration of canned tomato paste. U. S. v. Eight Cases of Tomato Paste. Default decree of condemnation and destruction. (F. & D. No. 43627. Sample No. 24090-D.)

This product contained excessive mold.

On September 8, 1938, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of eight cases of canned tomato paste at Columbus, Ohio; alleging that the article had been shipped in interstate commerce on or about July 30, 1938, from Fredonia, N. Y., by Fredonia Salsina Canning Co., Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sky Lark Brand Tomato Paste."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed and filthy vegetable substance.

On May 4, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30682. Adulteration of butter. U. S. v. Spring Valley Butter Co. Plea of guilty. Fine, \$75. (F. & D. No. 42691. Sample Nos. 27119-D, 44769-D, 44781-D, 44787-D.)

This product contained less than 80 percent of milk fat.

On April 29, 1939, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Spring Valley Butter Co., a corporation having a place of business at Houston, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about October 29 and November 19, 1938, from the State of Texas into the State of New York, of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by act of March 4, 1923.

On June 24, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$75.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30683. Adulteration of canned spinach. U. S. v. 24 Cases of Spinach. Default decree of condemnation and destruction. (F. & D. No. 45240. Sample No. 57529-D.)

Examination of this product showed that it contained insect larvae and fragments.

On April 27, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of canned spinach at Portland, Oreg.; alleging that the article had been shipped in interstate commerce on or about February 23, 1939, by the Larsen Co. from Green Bay, Wis.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Can) "Red & White Strained Spinach * * * Red & White Corp'n. Distributors, Chicago, Ill."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On June 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30684. Adulteration of canned frozen whole eggs. U. S. v. 1,000 Cans of Frozen Whole Eggs. Consent decree of condemnation. Product ordered released under bond. (F. & D. No. 45229. Sample No. 43540-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On April 22, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,000 cans of frozen whole eggs at Oakland, Calif.; alleging that the article had been shipped on or about April 14, 1939, from Fort Worth, Tex., by Merchants Cold Storage Co., Inc.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed and putrid animal substance.

On May 16, 1939, Swift & Co. having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered. The product was taken down under bond, conditioned that the good portion be segregated from the bad and that the former only be released.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30685. Adulteration of frozen fish. U. S. v. 932 Boxes and 375 Boxes of Red Perch Fillets. Consent decree of condemnation. Product ordered released under bond conditioned that unfit portion be destroyed. (F. & D. Nos. 44931, 44957. Sample Nos. 54332-D, 54350-D.)

This product was in part infested with parasitic worms.

On March 2 and 7, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the

district court libels praying seizure and condemnation of 1,307 boxes of frozen fish at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about January 9, 1939, by Commonwealth Ice & Cold Storage Co. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On March 22, 1939, the cases having been consolidated, and Walker's Fulton Fish Co., Chicago, Ill., claimant, having admitted the allegations of the libels, judgment of condemnation was entered, and the product was ordered released under bond conditioned that the good portion be salvaged and the unfit portion destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30686. Adulteration of frozen fish. U. S. v. 400 Boxes of Perch Fillets and 400 Boxes of Pike. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. Nos. 45125, 45130. Sample Nos. 54666-D, 54668-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was in whole or in part decomposed.

On April 5, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 800 boxes of frozen fish at Chicago, Ill.; alleging that the article had been shipped on or about March 14, 1939, by Cape Ann Cold Storage Co. from Gloucester, Mass.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Ocean Perch" or "Icy Bay Ocean Pike."

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On May 12, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30687. Misbranding of canned corn. U. S. v. Columbus Foods Corporation. Plea of nolo contendere. Fine, \$50. (F. & D. No. 42596. Sample No. 22326-D.)

This product was labeled to indicate that it was sweet or sugar corn; whereas it consisted of field corn.

On November 29, 1938, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Columbus Foods Corporation, trading at Evansville, Wis., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about October 12, 1937, from the State of Wisconsin into the State of Illinois, of a quantity of canned corn which was misbranded. The article was labeled in part: "Garden Brand * * * Packed by Garden Canning Company, Evansville, Wis."

The article was alleged to be misbranded in that the words "Garden Brand" and "Sweet Corn" and picture of an ear of corn on which the word "Golden" was printed, borne on the label, were false and misleading in that they implied that the article consisted of sweet or sugar corn; whereas it was field corn of a variety produced almost exclusively for animal feed; it was alleged to be misbranded further in that it was labeled so as to deceive and mislead the purchaser as to its variety and quality.

On February 10, 1939, a plea of nolo contendere was entered on behalf of the defendant and the court imposed a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30688. Adulteration of frozen fillets. U. S. v. 425 Boxes of Red Perch Fillets. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45179. Sample No. 54689-D.)

This product contained parasitic worms.

On April 15, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 425 boxes of red perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about March 28, 1939, by T. and J. Busalacchi from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On June 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30689. Adulteration of frozen fillets. U. S. v. 30 Boxes of Redfish Fillets. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45040. Sample No. 54371-D.)

This product contained parasitic worms.

On March 23, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 30 boxes of redfish fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about March 6, 1939, by Busalacchi Bros. from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On May 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30690. Adulteration and misbranding of canned crushed grapefruit. U. S. v. 64 Cases of Crushed Grapefruit. Default decree of condemnation. Product ordered destroyed or delivered to a public charitable institution. (F. & D. No. 44928. Sample No. 26819-D.)

This product was a mixture of grapefruit pomace (the residue after removing the juice in whole or in part) and added sugar.

On March 3, 1939, the United States attorney for the Northern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 64 cases of canned crushed grapefruit at Syracuse, N. Y.; alleging that the article had been shipped in interstate commerce on or about January 16, 1939, from Brownsville, Tex., by Engelmen Gardens Association; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Engelman Gardens Brand Crushed Grapefruit."

It was alleged to be adulterated in that a mixture of grapefruit pomace and sugar had been substituted in whole or in part for crushed grapefruit, which it purported to be; and in that a valuable constituent—juice—had been wholly or in part abstracted; and in that it was mixed in a manner whereby inferiority was concealed.

Misbranding was alleged in that the statements "Crushed Grapefruit" and "grapefruit," wherever they appeared on the can label, case label, and in the circular, were false and misleading and tended to deceive and mislead the purchaser when applied to an article that was a mixture of grapefruit pomace and added sugar.

On June 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed or delivered to a public charitable institution, for use and consumption only in such institution.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30691. Adulteration of butter. U. S. v. 11 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 45497. Sample No. 26875-D.)

This product contained less than 80 percent of milk fat.

On June 12, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 11 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about June 3, 1939, from Alta Vista, Iowa, by Alta Vista Farmers Mutual Creamery Association; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 20, 1939, Alta Vista Farmers Mutual Creamery Association, claimant, having admitted the allegations of the libel, judgment of condemnation was

entered, and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30692. Adulteration of flour. U. S. v. 175 Bags and 175 Bags of Flour. Consent decree of condemnation. Product ordered released under bond to be denatured. (F. & D. No. 43880. Sample Nos. 26143-D, 26144-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On September 14, 1938, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 350 bags of flour at Port Newark, N. J.; alleging that the article had been shipped on or about July 7, 1938, from Forth Worth, Tex., by Burrus Mill & Elevator Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On June 21, 1939, Burrus Mill & Elevator Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be denatured under the supervision of this Department and used for animal feed or for the manufacture of paste.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30693. Adulteration of butter. U. S. v. 33 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond for reworking. (F. & D. No. 45485. Sample No. 26869-D.)

This product contained less than 80 percent of milk fat.

On May 29, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about May 20, 1939, from Chicago, Ill., by Universal Carloading & Distributing Co.; and charging adulteration in violation of the Food and Drugs Act. The article was produced by Pierce Farmers' Creamery, Pierce, Nebr.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 16, 1939, Herold Gearon Co., Inc., New York, N. Y., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the tubs containing butter deficient in milk fat be reworked so that it contain not less than 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30694. Adulteration of frozen fillets. U. S. v. 20 Boxes and 290 Boxes of Perch Fillets. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. Nos. 44866, 45062. Sample Nos. 32385-D, 54375-D.)

This product contained parasitic worms.

On February 24 and March 23, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 310 boxes of perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about January 12 and March 4, 1939, in part from Provincetown, Mass., and in part from Boston, Mass., by Atlantic Coast Fisheries; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On April 24 and May 12, 1939, no claimant having appeared, judgments of condemnation were entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30695. Adulteration of butter. U. S. v. Oliver G. Harp (O. G. Harp Poultry & Egg Co.). Plea of guilty. Fine, \$25 and costs. (F. & D. No. 42726. Sample Nos. 54125-D, 54128-D.)

This product contained less than 80 percent of milk fat.

On June 12, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Oliver G. Harp, trading as O. G. Harp Poultry & Egg Co., at Shawnee, Okla.; alleging shipment by said defendant in violation of the Food and Drugs Act on or about January 23, 1939, from the State of Oklahoma into the State of Illinois, of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat.

On June 17, 1939, the defendant having entered a plea of guilty, the court imposed a fine of \$25 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30696. Adulteration and misbranding of cheese. U. S. v. 70 Boxes of Cheese. Product ordered released under bond for relabeling. (F. & D. No. 44285. Sample No. 31072-D.)

This product was deficient in fat and contained excessive moisture.

On November 4, 1938, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 boxes of cheese at Phoenix, Ariz.; alleging that the article had been shipped in interstate commerce on or about October 21, 1938, from La Veta, Colo., by Frink Creamery Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part : "Full Cream No. 1 Cloverbloom Factory No. 107."

It was alleged to be adulterated in that a substance deficient in fat and containing excess moisture had been mixed and packed with it so as to reduce or lower its quality, and had been wholly or in part substituted for full-cream or whole-milk cheese.

Misbranding was alleged in that the label statement "Full Cream" was false and misleading and tended to deceive and mislead the purchaser when applied to an article which was deficient in fat and contained excess moisture.

On December 9, 1938, the Frink Creamery Co, claimant, having consented to the entry of a decree, the product was ordered released under bond, conditioned that it not be disposed of contrary to law and that it be relabeled so as to conform to the Food and Drugs Act.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30697. Adulteration and misbranding of butter. U. S. v. 40 Cubes of Butter. Consent decree of condemnation. Product ordered released under bond. (F. & D. No. 45406. Sample No. 57649-D.)

This product contained less than 80 percent of milk fat.

On May 10, 1939, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cubes of butter at Los Angeles, Calif.; alleging that the article had been shipped in interstate commerce on or about May 2, 1939, from Beaver, Utah, by Brooklawn Creamery Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

Misbranding was alleged in that the label statement "Sweet Cream Butter" was false and misleading and deceived and misled the purchaser when applied to an article containing less than 80 percent milk fat.

On May 25, 1939, Brooklawn Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30698. Adulteration of butter. U. S. v. Louis J. Ehlert (Fonda Creamery). Plea of guilty. Fine, \$25 and costs. (F. & D. No. 42599. Sample No. 21711-D.)

This product contained less than 80 percent of milk fat.

On June 13, 1939, the United States attorney for the Northern District of Iowa, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Louis J. Ehlert, trading as Fonda Creamery at Fonda, Iowa, alleging shipment by said defendant in violation of the Food and Drugs Act, on or about March 24, 1938, from the State of Iowa into the State of Illinois, of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat.

On June 13, 1939, the defendant having entered a plea of guilty, the court imposed a fine of \$25 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30699. Adulteration of butter. U. S. v. Fort Worth Poultry & Egg Co., Inc., Plea of guilty. Fine, \$75. (F. & D. No. 42679. Sample No. 49969-D.)

This product contained less than 80 percent of milk fat.

On February 20, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Fort Worth Poultry & Egg Co., Inc., Fort Worth, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act on or about July 30, 1938, from the State of Texas into the State of Louisiana, of a quantity of butter that was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat.

On March 20, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$75.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30700. Adulteration of soy kernels. U. S. v. 9½ Cases of Soy Kernels. Default decree of condemnation and destruction. (F. & D. No. 45122. Sample No. 49919-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be rancid.

On April 1, 1939, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 9½ cases of soy kernels at Salt Lake City, Utah; alleging that the article had been shipped in interstate commerce on or about April 30, 1938, from Los Angeles, Calif., by Klix, Inc.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Klix Nut Like Soy Kernels."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed vegetable substance, and was rancid.

On May 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30701. Adulteration of frozen fish. U. S. v. 100 Boxes of Ocean Pike. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45224. Sample No. 54700-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On April 27, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 boxes of frozen ocean pike at Chicago, Ill.; alleging that the article had been shipped on or about April 4, 1939, from Boston, Mass., by North Atlantic Fish Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Icy Bay Ocean Pike."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On June 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30702. Adulteration of frozen fish. U. S. v. 79 Boxes of Haddock Fillets. Default decree of condemnation and destruction. (F. & D. No. 44946. Sample No. 58950-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in whole or in part decomposed.

On March 8, 1939, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 79 boxes of frozen haddock fillets at Columbus, Ohio; alleging that the article had been shipped on or about February 18, 1939, from Boston, Mass., by Star Fish Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On June 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30703. Adulteration of frozen fish. U. S. v. 96 Boxes of Perch Fillets. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. Nos. 45013, 45014. Sample No. 54361-D.)

This product contained parasitic worms.

On March 17, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 96 boxes of frozen perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about February 25, 1939, from Boston, Mass., by Ocean Fish Corporation; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On May 12, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30704. Adulteration of perch fillets. U. S. v. 17 Boxes of Perch Fillets. Default decree of condemnation and destruction. (F. & D. No. 45386. Sample No. 51449-D.)

This product contained parasitic worms.

On May 20, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 17 boxes of perch fillets at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about May 16, 1939, from Boston, Mass., by Cape Fish Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30705. Adulteration and misbranding of butter. U. S. v. Star Valley Creamery Co. and Cannon S. Wray. Plea of guilty by corporation; plea of nolo contendere by individual. Fines: corporation, \$75; individual, \$25. (F. & D. No. 42630. Sample No. 19169-D.)

This product contained less than 80 percent of milk fat.

On December 12, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Star Valley Creamery Co., a corporation, Afton, Wyo., and Cannon S. Wray, manager of said corporation, alleging shipment by said defendants in violation of the Food and Drugs Act on or about July 16, 1938, from the State of Wyoming into the State of California, of a quantity of butter which was adulterated and misbranded. The article was labeled in part: "Star Valley Creamery Butter."

It was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat.

Misbranding was alleged in that the label statement "Butter" was false and misleading, since it represented that the article was butter, a product which should contain not less than 80 percent by weight of milk fat; whereas it contained less than 80 percent by weight of milk fat.

On June 14, 1939, a plea of guilty having been entered on behalf of the corporation and a plea of nolo contendere having been entered by Wray, the court imposed fines of \$75 against the corporation and \$25 against the individual.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30706. Adulteration of frozen whole eggs and misbranding of frozen egg yolks. U. S. v. 18 Cans and 25 Cans of Frozen Whole Eggs and 12 Cans of Frozen Egg Yolks. Default decree of condemnation and destruction with respect to frozen whole eggs. Consent decree of condemnation with respect to frozen egg yolks and product released under bond to be relabeled. (F. & D. Nos. 42446, 42447, 42888. Sample Nos. 18133-D, 18134-D, 18137-D.)

The frozen whole eggs were in part decomposed, and the frozen egg yolks contained added sugar and an excessive amount of added egg white.

On May 19 and June 7, 1938, the United States attorney for the Territory of Hawaii, acting upon reports by the Secretary of Agriculture, filed in the district court two libels (May 19 libel amended July 21, 1938) praying seizure and condemnation of 43 cans of frozen whole eggs and 12 cans of frozen egg yolks at Honolulu, T. H., consigned by Nye & Nissen; alleging that the articles had been shipped in interstate commerce on or about May 13 and 31, 1938, from San Francisco, Calif.; and charging adulteration in violation of the Food and Drugs Act.

The libels alleged that the whole eggs were adulterated in that they were filthy, decomposed, and putrid. The frozen egg yolks were alleged to be adulterated in that substantial quantities of egg white had been added and substituted wholly or in part for the article.

On January 3 and 6, 1939, no claim having been entered for the frozen whole eggs, judgments of condemnation were entered and the product was ordered destroyed. On January 25, 1939, Nye & Nissen, Inc., having filed a claim and answer admitting that the frozen egg yolks contained residual egg white and added sugar and consenting to the entry of a decree, judgment was entered finding the product misbranded and ordering that it be condemned, but that it might be released under bond conditioned that it be labeled: "Egg Yolks with Added Whites and Added Sugar."

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30707. Adulteration of crab meat. U. S. v. 194 Pounds of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 45489. Sample No. 62777-D.)

This product contained evidence of the presence of filth.

On June 2, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 194 pounds of claw crab meat at Baltimore, Md., alleging that the article had been shipped on or about May 30, 1939, from Harvey, La., by George Martin Sea Food Co., of Westwego, La.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30708. Misbranding of butter. U. S. v. 4 Cases and 38 Loose Prints of Butter. Default decree of condemnation. Product ordered delivered to a charitable agency. (F. & D. No. 45432. Sample No. 63002-D.)

This product was short of the declared weight.

On May 10, 1939, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 4 cases and 38 loose

prints of butter at Dothan, Ala.; alleging that the article had been shipped in interstate commerce on or about May 3, 1939, from Chipley, Fla., by West Florida Creamery & Produce Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mayo's Pride Batter."

It was alleged to be misbranded in that the label statements, (on shipping case) "30 lb. Prints," (retail carton) "One Pound Net," and (parchment wrapper) "Four Ounces Net," were false and misleading and deceived and misled the purchaser, in that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On June 15, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable agency.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30709. Adulteration of butter. U. S. v. 54 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. & D. No. 45496. Sample Nos. 26873-D, 26874-D.)

This product contained less than 80 percent of milk fat.

On June 9, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 54 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about May 31, 1939, from South Sioux City, Nebr., by the Berger Creamery Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 21, 1939, the Berger Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked under the supervision of this Department, so as to contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30710. Adulteration of frozen fish. U. S. v. 236 Boxes of Ocean Perch. Default decree of condemnation and destruction. (F. & D. No. 45107. Sample No. 65562-D.)

This product contained parasitic worms.

On March 28, 1939, the United States attorney for the Southern District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 236 boxes of frozen perch fillets at Indianapolis, Ind.; alleging that the article had been shipped in interstate commerce on or about March 15, 1939, from Boston, Mass., by American Fish Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On June 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30711. Adulteration and misbranding of butter. U. S. v. 82 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. & D. No. 45525. Sample No. 26878-D.)

This product contained less than 80 percent of milk fat.

On June 16, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 82 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about June 6, 1939, from Dewitt, Iowa, by Lisbon Cooperative Creamery Co., of Lisbon, Iowa, through its agent, O. C. Capper, of Dewitt, Iowa; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Lily Lake Brand."

It was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

Misbranding was alleged in that the article was labeled "butter," which was false and misleading, since it contained less than 80 percent of milk fat.

On June 26, 1939, Weinberg Butter & Egg Co., Inc., New York, N. Y., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked under the supervision of this Department, so that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30712. Adulteration of butter. U. S. v. 12 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. & D. No. 45524. Sample No. 26879-D.)

This product contained less than 80 percent of milk fat.

On June 17, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 12 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about June 6, 1939, by Bellevue Creamery, Bellevue, Iowa, in pool car under the name of Edgewood Farmers Creamery, Dubuque, Iowa; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 26, 1939, Watts & Sons, claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30713. Adulteration of butter. U. S. v. 15 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. & D. No. 45486. Sample No. 26870-D.)

This product contained less than 80 percent of milk fat.

On May 29, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 15 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about May 8, 1939, from Paoli, Ind., by Turner's Creamery Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 16, 1939, Turner's Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be reworked, under the supervision of this Department, so that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30714. Adulteration of crab meat. U. S. v. 100 Cans of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 45451. Sample No. 62775-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to contain evidence of the presence of filth.

On June 1, 1939, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cans of crab meat at Washington, D. C.; alleging that the article had been shipped in interstate commerce on or about May 29, 1939, from Harvey, La., by the George Martin Sea Food Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted of a filthy animal substance.

On June 21, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

80715. Adulteration of crab meat. U. S. v. 278 Pounds of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 45490. Sample No. 62980-D.)

This product contained evidence of the presence of filth.

On June 2, 1939, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 209 pounds of white crab meat and 69 pounds of back fin lump crab meat at Baltimore, Md.; alleging that the article had been shipped on or about May 30, 1939, from New Orleans, La., by Paul Zibilich Co., Inc.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 27, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

80716. Adulteration of butter. U. S. v. 1 Box of Butter. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. & D. No. 45528. Sample No. 51575-D.)

This product contained less than 80 percent of milk fat.

On May 20, 1939, the United States attorney for the Eastern District of Pennsylvania acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1 box containing 60 pounds of butter at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about May 11, 1939, from Duluth, Minn., by Northwest Dairy Forwarding Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

80717. Misbranding of canned tomatoes. U. S. v. 70 Cases of Canned Tomatoes. Default decree of condemnation. Product ordered delivered to a charitable agency. (F. & D. No. 45270. Sample No. 66450-D.)

This product was substandard because it did not consist of whole or large pieces, and it was not labeled to indicate that it was substandard.

On May 4, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 cases of canned tomatoes at Blackwell, Okla.; alleging that the article had been transported in interstate commerce on or about February 15, 1939, from Berryville, Ark., by Berryville Supply Co.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Mountain Brand Hand-Picked Tomatoes * * * Packed For Berryville Supply Co., Berryville, Ark."

It was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it did not consist of whole or large pieces, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On June 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable agency.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

80718. Adulteration of butter. U. S. v. 13 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. & D. No. 45498. Sample No. 26876-D.)

This product contained less than 80 percent of milk fat.

On June 12, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 13 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about June 1, 1939, by Seward Creamery Co., Seward, Nebr., from United Creameries Service, Omaha, Nebr.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 21, 1939, Seward Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be reworked so that it contain at least 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30719. Adulteration and alleged misbranding of butter. U. S. v. 15 Cubes of Butter. Consent decree of condemnation. Product ordered released under bond. (F. & D. Nos. 45463, 45464, 45502. Sample Nos. 64616-D, 64617-D, 64619-D.)

This product contained less than 80 percent of milk fat, and the containers failed to bear a statement of the quantity of the contents.

On May 26 and 27, 1939, the United States attorney for the Western District of Washington, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 15 cubes of butter at Seattle, Wash.; alleging that the article had been shipped in interstate commerce on or about May 19, 23, and 24, 1939, from Lewiston, Idaho, by Clearwater Creamery Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

Misbranding was alleged in that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On June 1, 1939, the cases having been consolidated and the Clearwater Creamery Co., Lewiston, Idaho, claimant, having consented to the entry of a decree, judgment was entered finding the product adulterated and ordering that it be condemned. It was ordered further that the product be released under bond conditioned that it be brought into compliance with the law under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30720. Adulteration of flour. U. S. v. 61 Bags of Flour (and 2 similar seizure actions). Consent decrees of condemnation. Product ordered released under bond to be converted into hog feed. (F. & D. Nos. 44388, 44435, 44602. Sample Nos. 36090-D, 36127-D, 43341-D, 43344-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On November 21 and 29, and December 29, 1938, the United States attorney for the Northern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 118 bags of flour at San Francisco, Calif., and 100 sacks of flour at Oakland, Calif.; alleging that the article had been shipped within the period from on or about December 23, 1937, to on or about May 21, 1938, by Houser & Son, in part from Portland, Oreg., and in part from Pomeroy, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled variously in part: "Tisgood Bakers Patent Flour"; "Titanian Strictly Hard Wheat Patent Flour Bleached"; and "The Master Baker Bleached Bakers Flour."

It was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On June 2, 1939, A. Hillebrandt having appeared as claimant and having admitted the allegations of the libels, judgments of condemnation were entered, and the product was ordered released under bond conditioned that it be converted into hog feed under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30721. Adulteration of butter. U. S. v. 144 Tubs of Butter. Decree of condemnation. Product ordered released under bond. (F. & D. No. 45448. Sample No. 51755-D.)

This product contained less than 80 percent of milk fat.

On May 24, 1939, the United States attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in

the district court a libel praying seizure and condemnation of 144 tubs of butter at Philadelphia, Pa.; alleging that the article had been shipped in interstate commerce on or about May 21, 1939, from Buckhannon, W. Va., by Bowser Sales & Trading Corporation; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat.

On June 9, 1939, Bowser Sales & Trading Corporation having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be brought up to the legal standard under the supervision of this Department.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30722. Adulteration and misbranding of sliced smoked salmon. U. S. v. Five Cans of Sliced Smoked Salmon. Default decree of condemnation and destruction. (F. & D. No. 45242. Sample No. 57723-D.)

This product contained mineral oil.

On April 29, 1939, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five cans of sliced smoked salmon at Phoenix, Ariz.; alleging that the article had been shipped in interstate commerce on or about January 25, 1939, from Los Angeles, Calif., by Los Angeles Smoking & Curing Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part; "Lasco Brand."

It was alleged to be adulterated in that mineral oil had been mixed and packed with it so as to reduce or lower its quality; in that mineral oil had been substituted wholly or in part for edible salmon oil; and in that it was mixed in a manner whereby inferiority was concealed.

Misbranding was alleged in that the label statement "Sliced Smoked Salmon" was false and misleading and tended to deceive and mislead the purchaser, since mineral oil is not a recognized ingredient of sliced smoked salmon.

On June 16, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30723. Adulteration of frozen whole eggs. U. S. v. 105 Cans of Whole Eggs. Default decree of condemnation and destruction. (F. & D. No. 45267. Sample No. 38352-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On May 3, 1939, the United States attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 105 cans of frozen whole eggs at New Orleans, La.; alleging that the article had been shipped on or about August 18, 1938, from Topeka, Kans., by Seymour Packing Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On June 24, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30724. Adulteration of frozen lobster tails. U. S. v. 57 Boxes of Lobster Tails. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 44717. Sample No. 46163-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part decomposed.

On January 27, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 57 boxes of lobster tails at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about December 30, 1938, from Pittsburgh, Pa., by M. Feigenbaum & Sons (Federal Cold Storage); and charging adulteration in violation of the Food

and Drugs Act. The article was labeled in part: "Captail Brand Tails Langouste."

It was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On March 25, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30725. Adulteration of frozen fish. U. S. v. 24 Cartons of Perch Fillets. Default decree of condemnation. Product ordered converted into fertilizer. (F. & D. No. 45180. Sample No. 54693-D.)

This product contained parasitic worms.

On April 15, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cartons of frozen perch fillets at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about March 31, 1939, from New Bedford, Mass., by Atlantic Quick Freeze Co., Inc.; and charging adulteration in violation of the Food and Drugs Act.

It was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On June 9, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30726. Adulteration and misbranding of wheat gray shorts and screenings. U. S. v. Charles B. Stout (Majestic Flour Mill). Plea of nolo contendere. Fine, \$150. (F. & D. No. 40821. Sample Nos. 3902-D, 3903-D, 3904-D.)

Wheat brown shorts and screenings had been substituted in whole or in part for this product. All lots contained crude fiber in excess of the amount claimed, and two contained a smaller proportion of crude protein than that declared.

On June 8, 1938, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Charles B. Stout, trading as Majestic Flour Mill, Aurora, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act, within the period from on or about October 25, to on or about December 12, 1937, from the State of Missouri into the State of Texas, of quantities of wheat gray shorts and screenings which were adulterated and misbranded.

The article was alleged to be adulterated in that wheat brown shorts and screenings had been substituted in whole and in part for wheat gray shorts and screenings.

It was alleged to be misbranded in that the following statements appearing variously on the tags, (one lot) "Wheat Gray Shorts and Screenings, * * * Crude Protein not less than 17.00 Per Cent, * * * Crude Fiber not more than 6.00 Per Cent," (second lot) "Wheat Gray Shorts and Ground Wheat Screenings, * * * Crude Fiber not more than 5.50%," (third lot) "Wheat Gray Shorts and Ground Wheat Screenings, * * * Protein, not less than 16.00%, * * * Crude Fiber, not more than 5.50%," were false and misleading since the article was not wheat gray shorts and screenings, but was wheat brown shorts and screenings; all lots contained crude fiber in excess of the amount declared, the 3 lots containing 6.91, 7.07, and 6.39 percent of crude fiber, respectively; one lot contained less than the declared 17 percent, namely, 14.22 percent, of crude protein, and another lot contained less than the declared 16 percent, namely, 14.40 percent, of crude protein.

On June 12, 1939, the defendant having entered a plea of nolo contendere, the court imposed a fine of \$150.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30727. Misbranding of wheat gray shorts and screenings. U. S. v. Charles B. Stout (Majestic Flour Mill). Plea of nolo contendere. Fine, \$50. (F. & D. No. 42721. Sample No. 8912-D.)

This product contained a smaller proportion of crude protein than that declared on the tag.

On June 7, 1939, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the

district court an information against Charles B. Stout, trading as Majestic Flour Mill, Aurora, Mo., alleging shipment by said defendant in violation of the Food and Drugs Act on or about November 18, 1938, from the State of Missouri into the State of Texas, of a quantity of wheat gray shorts and screenings that were misbranded.

The article was alleged to be misbranded in that the statement, "Crude Protein not less than 17 per cent," borne on the tag, was false and misleading, and was borne on the tag so as to deceive and mislead the purchaser, since it contained less than 17 percent, namely, not more than 15.50 percent, of crude protein.

On June 12, 1939, the defendant having entered a plea of *nolo contendere*, the court imposed a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30728. Adulteration of frozen fish. U. S. v. 789 Boxes of Ocean Perch. Consent decree of condemnation and destruction. (F. & D. No. 45362. Sample No. 66466-D.)

This product was infested with parasitic worms.

On or about May 20, 1939, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 789 boxes of ocean perch at Kansas City, Mo.; alleging that the article had been shipped in interstate commerce on or about May 7, 1939, by Gloucester Ice & Cold Storage Co. from Gloucester, Mass.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy animal substance.

On May 27, 1939, no claim or answer having been filed and the consignee having consented to the immediate destruction of the product, judgment of condemnation and destruction was entered.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30729. Adulteration and misbranding of wheat gray shorts and screenings. U. S. v. Ponca City Milling Co., Inc. Plea of guilty. Fine, \$75 and costs. (F. & D. No. 42692. Sample Nos. 3910-D, 3913-D.)

Wheat brown shorts and screenings had been substituted in whole or in part for this product. It contained more crude fiber than declared on the tag.

On May 19, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ponca City Milling Co., Inc., Ponca City, Okla., alleging shipment by said corporation in violation of the Food and Drugs Act, on or about September 26 and November 14, 1938, from the State of Oklahoma into the State of Texas, of quantities of wheat gray shorts and screenings which were adulterated and misbranded.

The article was alleged to be adulterated in that wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings.

It was alleged to be misbranded in that the statements on the tag, "Wheat Gray Shorts and Screenings" and "Crude Fiber not more than 6.00 Per Cent," were false and misleading and were borne on the tag so as to deceive and mislead the purchaser since the article consisted of wheat brown shorts and screenings and contained more than 6 percent crude fiber, namely, 6.95 percent crude fiber in one shipment and 7.49 per cent in the other.

On June 29, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a total fine of \$75 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30730. Misbranding of canned tomatoes. U. S. v. 389 Cases of Tomatoes. Product ordered released under bond to be relabeled. (F. & D. No. 43090. Sample No. 15941-D.)

This product was substandard because it was not normally colored, and it was not labeled to indicate that it was substandard.

On July 20, 1938, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 389 cases of canned tomatoes at Shawnee, Okla.; alleging that the article had been shipped in

interstate commerce on or about June 9, 1938, by Moseley, Markham & Rettinger, from Rio Hondo, Tex.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "Reba Tomatoes * * * Packed by Moseley and Markham."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since it was not normally colored and its package or container did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On September 8, 1938, Moseley & Markham, claimant, having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond conditioned that it be relabeled in compliance with the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30731. Adulteration of imitation strawberry jam. U. S. v. 10 Cases of Imitation Strawberry Jam. Default decree of condemnation and destruction. (F. & D. No. 45263. Sample No. 43677-D.)

Examination of this product showed the presence of moldy berries.

On May 3, 1939, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 10 cases of imitation strawberry jam at Reno, Nev.; alleging that the article had been shipped in interstate commerce on or about June 1, 1938, by Enjoy Packing Co., Ltd., from San Francisco, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Five Brothers Fine Quality Imitation Strawberry Jam."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed vegetable substance.

On May 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30732. Adulteration of canned tomato catsup. U. S. v. 18 Cases of Tomato Catsup. Default decree of condemnation and destruction. (F. & D. No. 44101. Sample No. 20248-D.)

Examination of this product showed that it contained worm and insect fragments.

On October 8, 1938, the United States attorney for the District of Nevada, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 cases of tomato catsup at Las Vegas, Nev.; alleging that the article had been shipped in interstate commerce on or about August 6, 1938, by Val Vita Food Products, Inc., from Fullerton, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Val Vita Brand Tomato Catsup Made From Whole Ripe Tomatoes."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 3, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30733. Adulteration of crab meat. U. S. v. 1 Barrel and 1 Barrel of Crab Meat. Default decree of condemnation and destruction. (F. & D. No. 45527. Sample No. 62987-D.)

This product contained evidence of the presence of filth.

On June 17, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of two barrels of crab meat at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about June 12, 1939, by Geo. Martin Sea Food Co. from Westwego, La.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On June 30, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30734. Adulteration of dried peaches. U. S. v. 48 Boxes of Peaches. Default decree of condemnation and destruction. (F. & D. No. 44744. Sample No. 36147-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be insect-infested.

On January 31, 1939, the United States attorney for the District of Oregon, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 48 boxes of peaches at Medford, Oreg.; alleging that the article had been shipped on or about January 7, 1939, by Jacobsen Shealy Co., Inc., from San Francisco, Calif.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On June 20, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30735. Adulteration of sweet pickles. U. S. v. One Keg of Sweet Pickles. Default decree of condemnation and destruction. (F. & D. No. 44676. Sample No. 37336-D.)

This product had been shipped in interstate commerce and remained unsold and in the original package. At the time of examination it was found to contain insect fragments and rodent hairs.

On January 23, 1939, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of one keg of sweet pickles at St. Joseph, Mo.; alleging that the article had been shipped on or about October 26, 1938, by Thies Pickle Co. from Pepin, Wis.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy vegetable substance.

On March 6, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30736. Adulteration and misbranding of raspberry flavor. U. S. v. 3 Gallon Bottles of Pure Raspberry Flavor. Default decree of condemnation and destruction. (F. & D. No. 44570. Sample No. 58639-D.)

This product was represented to be pure fruit raspberry flavor; whereas it contained beta-ionone, a synthetic chemical flavor not found in raspberries.

On December 22, 1938, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three gallon bottles of raspberry flavor at Cincinnati, Ohio; alleging that the article had been shipped in interstate commerce on or about October 3, 1938, by W. J. Bush & Co., Inc., from Linden, N. J.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a substance which contained beta-ionone, a synthetic chemical flavor, had been substituted wholly or in part for it; and in that it was mixed in a manner whereby inferiority was concealed.

It was alleged to be misbranded in that the statement "Pure Raspberry Flavor," borne on the label, was false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained beta-ionone, a synthetic chemical flavor; and in that it was an imitation of and was offered for sale under the distinctive name of another article.

On February 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30737. Adulteration of butter. U. S. v. 51 Tubs of Butter. Consent decree of condemnation. Product ordered released under bond to be reworked. (F. & D. No. 45226. Sample No. 54151-D.)

This product contained less than 80 percent of milk fat.

On March 27, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 51 tubs of butter at

Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 26, 1938, by Dairy Belt Cheese & Butter Co. from Spencer, Wis.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as provided by act of March 4, 1923.

On April 25, 1939, Beatrice Creamery Co., Chicago, Ill., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30738. Adulteration of shelled peanuts. U. S. v. 250 Bags of Shelled Spanish Peanuts. Consent decree of condemnation. Product released under bond. (F. & D. No. 45417. Sample No. 55312-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be in part dirty, insect-infested, and decomposed.

On May 24, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 250 bags of shelled peanuts at Chicago, Ill.; alleging that the article had been shipped on or about May 8, 1939, by Columbian Peanut Co. from Shelman, Ga.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On June 16, 1939, the Columbian Peanut Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for salvaging the good portion.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30739. Adulteration of butter. U. S. v. 33 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 45488. Sample No. 60634-D.)

This product contained less than 80 percent of milk fat.

On May 29, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 33 tubs of butter at New York, N. Y., which had been shipped in interstate commerce on or about May 21, 1939, by Valley Creamery, Inc., from Harrisonburg, Va.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by act of March 4, 1923.

On June 27, 1939, Dairy & Poultry Cooperatives, Inc., New York, N. Y., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be reworked to the legal standard.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30740. Adulteration of tullibees. U. S. v. Booth Fisheries Corporation. Plea of guilty. Fine, \$20. (F. & D. No. 42669. Sample Nos. 13051-D, 32903-D.)

This product was infested with parasitic worms.

On May 9, 1939, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Booth Fisheries Corporation, having a place of business at Warroad, Minn., alleging shipment by said company in violation of the Food and Drugs Act, on or about October 4 and 5, 1938, from the State of Minnesota into the States of New York and Illinois, of quantities of tullibees which were adulterated.

The article was alleged to be adulterated in that it consisted in part of a filthy animal substance, namely, parasite-infested tullibees. It was alleged to be adulterated further in that it consisted of portions of animals unfit for food.

On June 26, 1939, a plea of guilty having been entered for the defendant, the court imposed a fine of \$20.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30741. Adulteration of butter. U. S. v. 18 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked. (F. & D. No. 45552. Sample No. 55605-D.)

This product contained less than 80 percent of milk fat.

On June 1, 1939, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about May 22, 1939, by Boone Dairy, Inc., from Boone, Iowa; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat, as provided by the act of March 4, 1923.

On June 2, 1939, Boone Dairy, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30742. Adulteration of butter. U. S. v. Falls City Creamery Co. Plea of guilty. Fine, \$50. (F. & D. No. 42698. Sample Nos. 41639-D, 41645-D, 41646-D, 41648-D.)

This product contained less than 80 percent of milk fat.

On April 28, 1939, the United States attorney for the District of Nebraska, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Falls City Creamery Co., a corporation, Falls City, Nebr., alleging shipment by said defendant in violation of the Food and Drugs Act on or about November 23 and 30, 1938, from the State of Nebraska into the State of Pennsylvania, of quantities of butter which was adulterated.

The article was alleged to be adulterated in that a product which contained less than 80 percent milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as prescribed by act of March 4, 1923.

On May 20, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30743. Adulteration of crab meat. U. S. v. George O. Powley (George O. Powley Co.). Plea of guilty. Fine, \$175 and costs. (F. & D. No. 40765. Sample Nos. 58810-C, 67381-C, 67466-C, 67467-C, 67472-C, 67488-C, 67489-C.)

This product contained evidence of the presence of filth.

On March 30, 1938, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court an information against George O. Powley, trading as George O. Powley Co., Wingate, Md., alleging shipment by said defendant in violation of the Food and Drugs Act, within the period from on or about August 9, 1937, to on or about September 6, 1937, from the State of Maryland into the State of Pennsylvania of quantities of crab meat which was adulterated.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy animal substance.

On May 31, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$175 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30744. Adulteration of butter. U. S. v. 26 Tubs, 65 Tubs, and 15 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking or denaturing. (F. & D. Nos. 44834, 44835, 44853. Sample Nos. 54117-D, 54119-D, 54121-D.)

Samples of this product were found to contain mineral oil, others were deficient in milk fat, and in others both conditions were found.

On January 21, 26, and 27, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 106 tubs of butter

at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 11 and 21, and September 20, 1938, by Salt City Creamery Co. from Hutchinson, Kans.; and charging adulteration in violation of the Food and Drugs Act.

One lot was alleged to be adulterated in that mineral oil had been substituted in part for butterfat. A second lot was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat as provided by act of March 4, 1923. Both types of adulteration were alleged with respect to the third lot.

On April 14, 1939, Salt City Creamery Co., claimant, having admitted the allegations of the libels and the cases having been consolidated, judgment of condemnation was entered, and the product was ordered released under bond conditioned that it be reworked or denatured, as required. The butter which was low in milk fat but not otherwise adulterated was reworked to the legal standard, and the butter which contained mineral oil was rendered into inedible grease.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30745. Adulteration of butter. U. S. v. 97 Tubs and 61 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked.
(F. & D. Nos. 45341, 45342. Sample Nos. 54159-D, 54161-D.)

This product contained less than 80 percent of milk fat.

On April 20, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 158 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 15 and 17, 1938, by Farmers Union Creamery Co. from Aurora, Nebr.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as provided by act of March 4, 1923.

On May 8, 1939, L. D. Schreiber & Co., Inc., Chicago, Ill., claimant, having admitted the allegations of the libels and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30746. Adulteration of butter. U. S. v. 47 Tubs and 17 Tubs of Butter. Consent decree of condemnation. Product released under bond to be reworked.
(F. & D. Nos. 45181, 45227. Sample Nos. 54150-D, 54155-D.)

This product contained less than 80 percent milk fat.

On March 23 and April 1, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 64 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about August 24 and 27, 1938, by Deer Creek Creamery from Atchison, Kans.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as provided by act of March 4, 1923.

On April 12, 1939, the cases having been consolidated and the Deer Creek Creamery, claimant, having admitted the allegations of the libels and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked to the legal standard.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30747. Adulteration of tullibees. U. S. v. Two Boxes and Four Boxes of Tullibees. Decree of condemnation. Product ordered converted into fertilizer.
(F. & D. Nos. 45236, 45237. Sample Nos. 45271-D, 45272-D.)

This product was infested with parasitic worms.

On April 11, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district

court libels praying seizure and condemnation of six boxes of tullibees at Chicago, Ill.; alleging that the article had been shipped in interstate commerce on or about April 3, 1939, by H. Brewster from Warroad, Minn.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, or putrid animal substance; and in that it consisted of portions of animals unfit for food.

On April 21 and June 20, 1939, no claim having been entered for four boxes of the product and the claimant for the remainder having consented to the entry of a decree, judgments of condemnation were entered and the product was ordered converted into fertilizer.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30748. Adulteration of butter. U. S. v. 35 Tubs, 31 Tubs, and 154 Tubs of Butter. Consent decree of condemnation. Product released under bond. (F. & D. Nos. 45431, 45449, 45487. Sample Nos. 54165-D, 54166-D, 54181-D.)

This product contained less than 80 percent of milk fat.

On May 3, 8, and 22, 1939, the United States attorney for the Northern District of Illinois, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 220 tubs of butter at Chicago, Ill.; alleging that the article had been shipped in interstate commerce within the period from on or about August 1 to August 27, 1938, by Farmers Union Creamery Co. from Aurora, Nebr.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent milk fat, as provided by act of March 4, 1923.

On June 2, 1939, L. D. Schreiber & Co., Inc., Chicago, Ill., claimant, having admitted the allegations of the libels and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be disposed of only in compliance with the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30749. Adulteration of frozen fish. U. S. v. 750 Boxes of Fillets (and 2 other seizure actions against similar products). Decrees of condemnation and destruction. (F. & D. Nos. 44944, 45145 to 45149, inclusive. Sample Nos. 36950-D, 36956-D, 40944-D, 40945-D, 40947-D, 40948-D.)

These products had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination they were found to be in part decomposed.

On March 3 and April 7, 1939, the United States attorneys for the District of Kansas and the Western District of Texas, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 750 boxes of frozen fish at Kansas City, Kans., and 134 cases and 873 boxes of frozen fish at El Paso, Tex.; alleging that the articles had been shipped within the period from on or about November 19, 1938, to on or about March 15, 1939, by Mid-Central Fish Co., in part from Portland, Maine, and in part from Kansas City, Mo.; and charging adulteration in violation of the Food and Drugs Act. The articles were labeled variously in part: "Nordic Fillet," "Sealshipt Fish Twin Haddock Fillets," "Cutlets," and "O-So-Good Fillets."

The articles were alleged to be adulterated in that they consisted wholly or in part of decomposed animal substances.

On March 11 and June 28, 1939, the shipper having appeared in the action instituted at Kansas City, Kans., and having consented to the entry of a decree, and no appearance having been made in the actions instituted at El Paso, Tex., judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30750. Adulteration of frozen fish. U. S. v. 241 Boxes of Perch Fillets (and 6 other seizure actions against similar products). Default decrees of condemnation and destruction. (F. & D. Nos. 45104, 45186, 45204, 45217, 45248, 45291, 45414, 45415. Sample Nos. 51432-D, 58952-D, 58953-D, 58992-D, 63214-D, 65209-D, 65450-D, 65451-D, 65538-D.)

These products had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination certain lots

were found to be infested with parasitic worms, and the remaining lots were found to be in whole or in part decomposed.

Within the period from March 27 to May 24, 1939, the United States attorneys for the Southern District of Ohio, Southern District of Iowa, Southern District of Indiana, and the Eastern District of Pennsylvania, acting upon reports by the Secretary of Agriculture, filed in their respective district courts libels praying seizure and condemnation of 505 boxes of perch fillets, 123 boxes of whiting, and 30 boxes of scrod fillets at Cincinnati, Ohio; 194 boxes of ocean perch at Davenport, Iowa; 723 cases of perch fillets and 47 boxes of whiting fillets at Indianapolis, Ind., and 9 boxes of pollack fillets at Philadelphia, Pa.; alleging that the articles had been shipped within the period from on or about March 16, 1939, to on or about May 4, 1939, by Great Atlantic & Pacific Tea Co., from Boston, Mass.; and charging adulteration in violation of the Food and Drugs Act. Certain lots were labeled in part variously: "North East Perch Fillets"; "Ocean Perch"; "Seakist Fillets"; "Gorton's Butterfly Whiting Fillets Packed by Gorton Pew Fisheries, Ltd." The remaining lots were unlabeled.

The libels alleged that the articles were adulterated in that portions consisted in whole or in part of a filthy animal substance, other portions consisted in whole or in part of a decomposed animal substance, and others consisted in whole or in part of a decomposed and putrid animal substance.

Between the dates of May 23 and June 23, 1939, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30751. Adulteration of dried pears. U. S. v. Guggenheim & Co. Plea of guilty. Fine, \$100. (F. & D. No. 42725. Sample No. 37128-D.)

This product was insect-infested and contained dead worms and other filth.

On June 5, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Guggenheim & Co., a corporation having a place of business at San Francisco, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act on or about December 8, 1938, from the State of California into the State of Texas, of a quantity of dried pears which were adulterated. The article was labeled in part: "Fuchsia Brand California Extra Choice Halved Pears."

It was alleged to be adulterated in that it consisted in part of a filthy vegetable substance.

On June 16, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$100.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30752. Misbranding of vanilla extract. U. S. v. 3,000 Bottles of Pure Extract of Vanilla. Consent decree of condemnation. Product ordered released under bond to be relabeled. (F. & D. No. 44475. Sample No. 44730-D.)

This product was represented to be pure vanilla flavor but consisted of a hydroalcoholic solution of vanilla flavor and artificial flavor.

On December 7, 1938, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 3,000 bottles of vanilla extract at Brooklyn, N. Y.; alleging that the article had been shipped in interstate commerce on or about November 12, 1938, by Commercial Coffee Co. from St. Louis, Mo.; and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "King Bee Brand Pure Extract of Vanilla."

It was alleged to be misbranded in that the statement on the bottle label, "Pure Extract of Vanilla," was false and misleading and tended to deceive and mislead the purchaser, since analysis revealed it to be a hydroalcoholic solution of vanilla and artificial flavor.

On July 7, 1939, Joseph Frimel, Jr., trading as Commercial Coffee Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled to comply with the law.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30753. Adulteration of dried prunes and dried peaches. U. S. v. 679 Boxes of Dried Prunes, et al. Default decree of condemnation and destruction. (F. & D. No. 45388. Sample Nos. 44284-D to 44289-D, inclusive.)

These products had been shipped in interstate commerce by boat from San Francisco, Calif., to Newark, N. J., at which port they were substantially damaged as the result of fire in the hold of the ship. When examined the boxes were thickly encrusted with dirty clay; some boxes were burned or charred; and the fruit was moldy, water-soaked, or filthy.

On May 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 679 boxes of dried prunes and 17 boxes of dried peaches remaining unsold and in the original packages at Newark, N. J.; alleging that the articles had been shipped on or about March 2, 1939, from San Francisco, Calif., by Rosenberg Bros. & Co.; and charging adulteration in violation of the Food and Drugs Act. The articles were labeled variously: "Iris Brand," "Morning Star Brand," and "Ensign Brand."

Adulteration was alleged in that the articles consisted in whole or in part of filthy or decomposed vegetable substances.

On June 29, 1939, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30754. Adulteration of dried prunes. U. S. v. 64 Boxes of Dried Prunes. Default decree of condemnation and destruction. (F. & D. No. 45389. Sample Nos. 44290-D, 44291-D, 44292-D.)

This product had been shipped in interstate commerce by boat from San Jose, Calif., to Newark, N. J., at which port it was damaged substantially as the result of fire in the hold of the ship. When examined the boxes were thickly encrusted with dirty clay; some boxes were burned or charred; and the fruit was moldy, water-soaked, or filthy.

On May 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 64 boxes of dried prunes remaining unsold and in the original packages at Newark, N. J.; alleging that the article had been shipped on or about March 6, 1939, from San Jose, Calif., by California Prune & Apricot Growers Association; and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "California Fruits Golden Glow Prunes [or "Sunsweet Tenderized Fruit"]".

It was alleged to be adulterated in that it consisted in whole or in part of a filthy or decomposed vegetable substance.

On June 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30755. Adulteration of prunes. U. S. v. 18 Boxes of Dried Prunes. Default decree of condemnation and destruction. (F. & D. No. 45390. Sample Nos. 44293-D, 44294-D.)

This product had been shipped in interstate commerce by boat from San Francisco, Calif., to Newark, N. J., at which port it was damaged substantially as the result of a fire in the hold of the ship. When examined the boxes were thickly encrusted with dirty clay; some boxes burned or charred; and the fruit was moldy, water-soaked, or filthy.

On May 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 18 boxes of dried prunes remaining unsold and in the original packages at Newark, N. J.; alleging that the article had been shipped on or about March 4, 1939, from San Francisco, Calif., by Libby, McNeill & Libby; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Libby's Santa Clara Prunes."

Adulteration was alleged in that the article consisted in whole or in part of a filthy or decomposed vegetable substance.

On June 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30756. Adulteration of dried peaches. U. S. v. 1,400 Boxes of Dried Peaches. Default decree of condemnation and destruction. (F. & D. No. 45391. Sample No. 44295-D.)

This product had been shipped in interstate commerce by boat from San Francisco, Calif., to Newark, N. J., at which port it was damaged substantially as the result of a fire. When examined the boxes were thickly encrusted with dirty clay; some boxes were burned or charred; and the fruit was moldy, water-soaked, or filthy.

On May 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,400 boxes of dried peaches remaining unsold and in the original packages at Newark, N. J.; alleging that the article had been shipped on or about March 4, 1939, from San Francisco, Calif., by Cured Fruit Association of California; and charging adulteration in violation of the Food and Drugs Act. The article was labeled: "Asco Brand California Peaches."

Adulteration was alleged in that the article consisted in whole or in part of a filthy or decomposed vegetable substance.

On June 29, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30757. Adulteration of white beans. U. S. v. 178 Bags of White Beans. Default decree of condemnation and destruction. (F. & D. No. 45392. Sample No. 44296-D.)

This product had been shipped in interstate commerce by boat from San Francisco, Calif., to Newark, N. J., at which port it was damaged substantially as the result of a fire in the hold of the ship. When examined the bags were charred and encrusted with dirty clay, and the contents were filthy.

On May 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 178 bags of white beans remaining unsold in the original packages at Newark, N. J.; alleging that the article had been shipped on or about March 6, 1939, from San Francisco, Calif., by Lompoc Produce & Real Estate Co.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ames Harris Neville Co. S. F."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy or decomposed vegetable substance.

On June 28, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30758. Adulteration of Cera-Lac. U. S. v. 141 Bags of Cera-Lac. Default decree of condemnation and destruction. (F. & D. No. 45393. Sample No. 44297-D.)

This product had been shipped in interstate commerce by boat from Los Angeles, Calif., to Newark, N. J., at which port it was damaged substantially as the result of fire in the hold of the ship. When examined the bags were charred and encrusted with dirty clay, and the contents were filthy.

On May 23, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 141 bags of Cera-Lac remaining unsold and in the original packages at Newark, N. J.; alleging that the article had been shipped on or about March 9, 1939, from Los Angeles, Calif., by the Cera-Lac Co.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy or decomposed vegetable substance.

On June 28, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30759. Misbranding of canned cherries. U. S. v. 100 Cases of Canned Cherries. Decree of condemnation. Product released under bond for relabeling. (F. & D. No. 44745. Sample No. 51196-D.)

This product was substandard because of the presence of excessive pits, and it was not labeled to indicate that it was substandard.

On January 31, 1939, the United States attorney for the Southern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district

court a libel praying seizure and condemnation of 100 cases of canned cherries at Miami, Fla.; alleging that the article had been shipped in interstate commerce on or about December 29, 1939, by the Washington Packers, Inc., from Tacoma, Wash.; and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Fruitfull Brand Water Pack Red Sour Pitted Cherries."

Misbranding was alleged in that the article was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, since there was present more than 1 cherry pit for each 20 ounces of net contents and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department indicating that it fell below such standard.

On July 14, 1939, the Washington Packers, Inc., having appeared as claimant and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled in part: "Below U. S. Standard Good Food—Not High Grade Water Pack Red Sour Partially Pitted Cherries."

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30760. Adulteration of dried apple chops. U. S. v. 219,900 Pounds of Dried Apple Chops. Default decree of condemnation and destruction. (F. & D. No. 45109. Sample No. 17574-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to be decomposed, moldy, and insect-infested.

On March 29, 1939, the United States attorney for the Middle District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 219,900 pounds of dried apple chops at Waynesboro, Pa.; alleging that the article had been shipped on or about March 16 and April 15, 1937, by the C. H. Musselman Co. from Charles Town, W. Va.; and charging adulteration in violation of the Food and Drugs Act.

Adulteration was alleged in that the article consisted wholly or in part of a filthy and decomposed vegetable substance.

On August 1, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30761. Adulteration of butter. U. S. v. 22 Tubs, 12 Tubs, and 7 Tubs of Butter. Consent decree of condemnation. Product released under bond for reworking. (F. & D. No. 45461. Sample No. 60636-D.)

This product contained less than 80 percent by weight of milk fat.

On May 31, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 41 tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about May 22, 1939, by the Fairmont Creamery Co. from Pittsburgh, Pa.; and charging adulteration in violation of the Food and Drugs Act.

Adulteration was alleged in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as provided by the act of March 4, 1923.

On June 28, 1939, the Fairmont Creamery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be reworked so that it contain not less than 80 percent of milk fat.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30762. Adulteration of canned evaporated milk. U. S. v. 42 Cases of Canned Evaporated Milk. Default decree of condemnation and destruction. (F. & D. No. 45507. Sample No. 60552-D.)

Examination of this product showed that it was in whole or in part decomposed.

On June 20, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 42 cases of canned evaporated

milk at East Orange, N. J.; alleging that the article had been shipped in interstate commerce on or about March 28, 1939, by the Ewing Von Allmen Dairy Co. from Findley, Ohio; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: (Cans) "American House Evaporated Milk * * * Manufactured by Ewing Von Allmen Dairy Co."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed animal substance.

On August 2, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30763. Adulteration of tomato paste. U. S. v. Fredonia Salsina Canning Co., Inc., and Anthony A. Gugino. Pleas of guilty. Fines of \$150 imposed against each defendant. Payment of fine imposed upon Anthony A. Gugino suspended. (F. & D. No. 42676. Sample No. 24090-D.)

Samples of this product were found to contain excessive mold.

On April 3, 1939, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Fredonia Salsina Canning Co., Inc., Fredonia, N. Y., and Anthony A. Gugino, president and treasurer of the company, alleging shipment by said defendants in violation of the Food and Drugs Act on or about July 30, 1938, from the State of New York into the State of Ohio of a quantity of tomato paste which was adulterated. The article was labeled in part: "Sky Lark Brand Tomato Paste."

It was alleged to be adulterated in that it consisted in part of a decomposed and filthy vegetable substance, namely, tomato paste which contained excessive mold.

On July 24, 1939, pleas of guilty having been entered on behalf of the defendants, the court sentenced each to pay a fine of \$150, but suspended payment of the fine imposed on Anthony A. Gugino.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30764. Adulteration of butter. U. S. v. 136 Cartons of Butter. Consent decree of condemnation and destruction. (F. & D. No. 45102. Sample No. 45230-D.)

This product contained filth.

On March 11, 1939, the United States attorney for the Northern District of Florida, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 136 cartons of butter at Tallahassee, Fla.; alleging that the article had been shipped in interstate commerce on or about March 3, 1939, from Tifton, Ga., by Armour & Co., Inc.; and charging adulteration in violation of the Food and Drugs Act. Armour & Co., Inc., held an instrument signed by R. C. Wilson, owner of the Tifton Ice Cream & Creamery Co., from whom it purchased this article, which guaranteed that the product was not adulterated nor misbranded within the meaning of the Food and Drugs Act. The article was labeled in part: "Spring Brook Brand Creamery Butter. * * * Distributed by Armour Creameries."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy, decomposed, and putrid animal or vegetable substance.

On April 1, 1939, Armour & Co., Inc., and R. C. Wilson filed a joint answer admitting the allegations of the libel but denying that the butter belonged to Armour & Co., Inc., and averring that the owner was R. C. Wilson. On April 19, 1939, the said R. C. Wilson having consented to the entry of a decree and having agreed to pay costs of the proceedings and to surrender all claim to the butter, judgment of condemnation was entered and it was ordered that the product be destroyed and that costs be taxed against claimants. All costs were paid by R. C. Wilson.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30765. Adulteration of frozen whole eggs. U. S. v. 100 Cans of Frozen Whole Eggs. Default decree of condemnation and destruction. (F. & D. No. 44752. Sample Nos. 36782-D, 36783-D, 43604-D.)

This product had been shipped in interstate commerce and remained unsold and in the original unbroken packages. At the time of examination it was found to be in whole or in part decomposed.

On January 31, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 100 cans of frozen whole eggs at San Francisco, Calif.; alleging that the article had been shipped on or about November 3, 1938, by the Market Produce Co., from Shreveport, La.; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it consisted wholly or in part of a decomposed animal substance.

On July 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30766. Adulteration of rice. U. S. v. 64 Bags of Rice. Default decree of condemnation and destruction. (F. & D. No. 44996. Sample Nos. 43640-D, 43641-D.)

This product had been shipped in interstate commerce and remained unsold and in the original packages. At the time of examination it was found to contain rodent excreta.

On March 9, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 64 bags of rice at San Francisco, Calif.; alleging that the article had been shipped on or about October 13, 1938, by the Pfeffer Rice Milling Co., Inc., from Houston, Tex.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "C. P. Texas Patna Rice."

Adulteration was alleged in that the article consisted wholly or in part of a filthy vegetable substance.

On July 19, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30767. Adulteration of butter. U. S. v. Three Tubs of Butter. Default decree of condemnation. Product delivered to charitable institution. (F. & D. No. 45526. Sample No. 26880-D.)

This product contained less than 80 percent of milk fat.

On June 17, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of three tubs of butter at New York, N. Y.; alleging that the article had been shipped in interstate commerce on or about June 10, 1939, by the Farmers Creamery Co., from Dows, Iowa; and charging adulteration in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent of milk fat as provided by the act of March 4, 1923.

On July 13, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30768. Adulteration of whitefish caviar. U. S. v. 257 Jars of Whitefish Caviar. Default decree of condemnation and destruction. (F. & D. No. 42459. Sample No. 33808-D.)

Samples of this product were found to contain parasitic worms and fish bones.

On May 25, 1938, the United States attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 257 jars of whitefish caviar at Quantico, Va.; alleging that the article had been shipped in interstate commerce on or about March 23, 1938, by Vita Food Products, Inc., from New York, N. Y.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Choisa White Fish Caviar * * * packed expressly for S. S. Pierce Co., Boston."

Adulteration was alleged in that the article consisted in whole or in part of a filthy animal substance.

On July 27, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30769. Adulteration of raisins. U. S. v. 356 Cases of Raisins. Default decree of condemnation and destruction. (F. & D. No. 45336. Sample Nos. 47501-D, 47502-D.)

This product had been shipped in interstate commerce and remained unsold and in the original unbroken packages. At the time of examination it was found to be insect-infested.

On May 15, 1939, the United States attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 356 cases of raisins at Wilmington, N. C.; alleging that the article had been shipped on or about August 26, 1938, by the California Packing Corporation from San Francisco, Calif.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Oro Brand Choice Seeded Muscat Raisins"; or "Dessert Brand Sun Dried Natural Seedless Raisins."

Adulteration was alleged in that the article consisted in whole or in part of a filthy vegetable substance.

On July 10, 1939, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30770. Adulteration of butter. U. S. v. John Lingner (Fairview Creamery Co.). Plea of guilty. Fine, \$25. (F. & D. No. 42697. Sample No. 44770-D.)

This product contained less than 80 percent by weight of milk fat.

On April 12, 1939, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John Lingner, trading as the Fairview Creamery Co., Houston, Tex., alleging shipment by said defendant in violation of the Food and Drugs Act on or about November 4, 1938, from the State of Texas into the State of New York of a quantity of butter which was adulterated.

Adulteration was alleged in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of Congress of March 4, 1923.

On July 8, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30771. Adulteration of dressed poultry. U. S. v. Jerpe Dairy Products Corporation. Plea of guilty. Fine, \$50. (F. & D. No. 42687. Sample No. 44112-D.)

This product was in whole or in part decomposed.

On April 28, 1939, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Jerpe Dairy Products Corporation, Fayetteville, Ark., alleging shipment by said company on or about December 2, 1938, from the State of Arkansas into the State of New York in violation of the Food and Drugs Act, of a quantity of dressed poultry that was adulterated. The article was labeled: "Economy Broilers * * * Economy Fowls."

The article was alleged to be adulterated in that it consisted in whole and in part of a decomposed animal substance.

On June 5, 1939, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30772. Adulteration and misbranding of horseradish. U. S. v. Golden Pickle Works, Inc. Plea of guilty. Fine, \$50 on the first count. Imposition of sentence suspended on remaining counts, and defendant placed on probation for 60 days. (F. & D. No. 42651. Sample Nos. 3249-D, 25985-D.)

This product was adulterated and misbranded because other substances had been substituted in whole or in part for horseradish, which it purported to be. It was misbranded further because of failure of the label to bear a plain and conspicuous statement of the quantity of contents.

On June 23, 1939, the United States attorney for the Eastern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Golden Pickle Works, Inc., Brooklyn, N. Y., alleging shipment by said company on or about May 27 and June 17,

1938, from the State of New York into the State of New Jersey, of quantities of horseradish which was adulterated and misbranded.

The article was alleged to be adulterated in that a substance other than horseradish, namely, a mixture of ground turnip or ground parsnip, containing cornstarch and mustard oil, had been substituted for horseradish, which it purported to be.

A portion of the article was alleged to be misbranded in that the statement "Horseradish," borne on the jar label, was false and misleading and was borne on said label so as to deceive and mislead the purchaser, since the article did not consist of horseradish, but did consist of a substance other than horseradish, namely, a mixture of ground turnip or ground parsnip, containing cornstarch and mustard oil. Further misbranding of the said portion was alleged in that it was an imitation of horseradish, and was offered for sale and sold under the name of another article, namely, horseradish. Both lots were alleged to be misbranded in that the article was food in package form and the quantity of contents was not plainly and conspicuously marked on the outside of the package.

On June 27, 1939, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$50 on count 1 of the information, and ordered that imposition of sentence be suspended on the remaining 4 counts. The defendant was placed on probation for 60 days.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30773. Adulteration and misbranding of wheat gray shorts and screenings. U. S. v. Mrs. Harriet E. Hacker, William T. Hacker, Mrs. Charles F. Sprague, Jr., and Mrs. George Crist (Hacker Flour Mills). Plea of guilty. Fine, \$60 and costs. (F. & D. No. 42719. Sample Nos. 3914-D, 3915-D.)

Wheat brown shorts and screenings had been substituted in whole or in part for this product. It contained more crude fiber than declared on the tags.

On May 8, 1939, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Mrs. Harriett E. Hacker, William T. Hacker, Mrs. Charles F. Sprague, Jr., and Mrs. George Crist, trading as Hacker Flour Mills, Jefferson, Okla., alleging shipment by said defendants in violation of the Food and Drugs Act on or about November 10 and 22, 1938, from the State of Oklahoma into the State of Texas of quantities of a product labeled "wheat gray shorts and screenings" which was adulterated and misbranded.

The article was alleged to be adulterated in that wheat brown shorts and screenings had been substituted in whole or in part for wheat gray shorts and screenings.

It was alleged to be misbranded in that the statements "Wheat Gray Shorts and Screenings" and "Crude Fiber not more than 6.00 Percent," borne on the tag, were false and misleading and were borne on the tag so as to deceive and mislead the purchaser, since the article consisted of wheat brown shorts and screenings and it contained more than 6 percent of crude fiber, the two shipments having been found to contain 7.59 percent and 7.48 percent, respectively, of crude fiber.

On May 11, 1939, a plea of guilty having been entered, the court imposed a fine of \$60 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30774. Adulteration of flour. U. S. v. 200 Bags, 200 Bags, and 581 Sacks of Flour. Product ordered released under bond conditioned that portion found unfit for human consumption be disposed of for duck feed or for technical purposes. (F. & D. Nos. 45394, 45438. Sample Nos. 44298-D, 44299-D, 44300-D.)

This product had been shipped in interstate commerce by boat from Seattle, Wash., to Newark, N. J., at which port it was substantially damaged, the result of a fire in the hold of the ship. When examined the product was found to be water-soaked, and some bags were charred and covered with a black oily substance.

On May 23 and June 2, 1939, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 981 sacks of flour remaining unsold and in the original packages at Newark, N. J.; alleging that the article had been shipped on or about February 25, 1939, by Centennial

Flouring Mills Co. from Seattle, Wash.; and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Centennial Gold Drop Flour" or "Centennial Pandora Flour."

It was alleged to be adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On June 30, 1939, the cases having been consolidated and S. A. Wald & Co., Inc., claimant, having admitted that the product consisted in part of a decomposed vegetable substance, judgment was entered ordering that the product be released under bond conditioned in part that the portion found unfit for human consumption be denatured and disposed of for duck feed or for technical purposes.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

30775. Adulteration and misbranding of lemon juice; and misbranding of orange juice, Cherry Flow, and Loganberry Flow. U. S. v. 20 Cases of Orange Juice (and 5 other actions against similar products). Default decrees of condemnation. Lots not adulterated ordered delivered to charitable institutions. Adulterated lots ordered destroyed. (F. & D. Nos. 45207 to 45213, inclusive. Sample Nos. 59834-D, 59835-D, 59837-D, 59838-D, 59839-D, 60601-D, 60602-D.)

Two of the three lots of lemon juice contained enamel lining from the container; 1 lot also contained added water. The labeling of all three lots of lemon juice and the lot of orange juice bore false and fraudulent curative and therapeutic claims. The Cherry Flow and Loganberry Flow were labeled to indicate that they consisted essentially of fruit juices; whereas the former contained approximately 10 percent of cherry juice and the latter contained approximately 20 percent of loganberry juice, and the misleading impression created by the labeling was not corrected by the word "diluted" appearing inconspicuously on the label.

On April 19, 1939, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 20 cases of orange juice, 10 cases of Cherry Flow, 10 cases of Loganberry Flow, and 89 cases of lemon juice at New York, N. Y.; alleging that the articles had been shipped in interstate commerce within the period from on or about March 21, 1937, to on or about November 12, 1937, from Los Angeles, Calif., or Detroit, Mich., with the exception of one lot, all shipments having been made by Pure Foods Corporation (one shipment in the name of the Coast Fishing Co.); and charging misbranding of all lots and adulteration of two of the three lots of lemon juice in violation of the Food and Drugs Act as amended. The articles were labeled in part: "Golden Flow Brand * * * Pure Foods Corp. Los Angeles, Calif."

One of the three lots of lemon juice was alleged to be adulterated in that enamel lining from the container had been substituted in part for the article. Another of the said lots was alleged to be adulterated in that enamel lining from the container had been substituted in part for the article, and in that water had been mixed and packed with it so as to reduce or lower its quality or strength; in that a mixture of citrus juice and water had been substituted for lemon juice, which it purported to be; and in that it was mixed in a manner whereby inferiority was concealed.

The orange and lemon juices were alleged to be misbranded in that the following statements in the labeling were statements regarding their curative or therapeutic effects and were false and fraudulent: (Orange juice) "Helps to combat germ infection of the mucous membranes. Of particular value in combating acidosis. Stimulates appetite and growth. Prevents scurvy. Nature's aid in obtaining the alkaline balance"; (lemon juice) "Repels nerve inflammation. Of special value in southern climates to combat disease. An aid to Beauty and Health of skin and scalp when applied externally." One lot of lemon juice was alleged to be misbranded further in that the statement "Pure Lemon Juice Pure Fruit Acid Added" was false and misleading and tended to deceive and mislead the purchaser when applied to an article which contained a material proportion of added water and in which there was present but a small amount of lemon juice. The Cherry Flow and Loganberry Flow were alleged to be misbranded in that the following statements, "Pure Red Cherry Flow * * * A Pure Juice Beverage made from the genuine Red Cherry," and "Pure Loganberry Flow * * * A pure Juice Beverage

made from genuine sun-ripened Loganberries," borne on their respective labels, were false and misleading and tended to deceive and mislead the purchaser when applied to mixtures consisting principally of water, and this deception was not lessened by the word "diluted" which followed inconspicuously after the statements quoted.

On June 19, 1939, no claimant having appeared, judgments of condemnation were entered and it was ordered that the adulterated lots of lemon juice be destroyed and that the remainder of the products be delivered to charitable institutions.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

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pollack, frozen:		Cured Fruit Association of California	30756
Great Atlantic & Pacific Tea Co.	30750	Jacobsen Shealy Co., Inc.	30734
O'Donnell-Usen Fisheries	30679	Rosenberg Bros. & Co.	30753
salmon, smoked:		Peanuts. <i>See</i> Nuts.	
Los Angeles Smoking & Curing Co.	30722	Pears, dried:	
shad:		Guggenheim & Co.	30751
Booth, F. E., Co., Inc.	30654	Perch fillets. <i>See</i> Fish and shellfish, perch (frozen).	
tullibees:		Pickles:	
Booth Fisheries Corporation	30740	Thies Pickle Co.	30735
Brewster, H.	30747	Pike. <i>See</i> Fish and shellfish.	
Keystone Fisheries	30674	Pollack fillets. <i>See</i> Fish and shellfish, pollack (frozen).	
Midwest Fish Co.	30672	Poultry, dressed:	
whitefish caviar:		Jerpe Dairy Products Corporation	30771
Pierce, S. S., Co.	30768	Prunes:	
Vita Food Products, Inc.	30768	California Packing Corporation	30651
whiting, frozen:		California Prune & Apricot Growers Assoc.	30754
Gorton Pew Fisheries, Ltd.	30750	Libby, McNeill & Libby	30755
Great Atlantic & Pacific Tea Co.	30750	Rosenberg Bros. & Co.	30753
Flavors—		Raisins:	
vanilla:		California Packing Corporation	30769
Commercial Coffee Co.	30752	West Coast Growers & Packers	30665
Flour—		Raspberry flavor. <i>See</i> Beverages and beverage bases.	
Burrus Mill & Elevator Co.	30692	juice. <i>See</i> Beverages and beverage bases.	
Centennial Flouring Mills Co.	30774	Redfish fillets. <i>See</i> Fish and shellfish, perch (frozen).	
Houser & Son	30720	Relish:	
buckwheat:		Da Costa & Co.	30658
Loughry Bros. Milling & Grain Co.	30661	Rice:	
rye:		Pfeffer Rice Milling Co., Inc.	30766
Coast Dakota Flour Co.	30678	Rye flour. <i>See</i> Flour, rye.	
Globe Grain & Milling Co.	30678	Salmon. <i>See</i> Fish and shellfish.	
Pillsbury Flour Mills Co.	30678	Scrod fillets. <i>See</i> Fish and shellfish, haddock (frozen).	
soybean:		Shad. <i>See</i> Fish and shellfish.	
Coast Dakota Flour Co.	30678	Shorts and screenings. <i>See</i> Feed, wheat.	
wheat, buckwheat, and corn. <i>See</i> Cera-Lac.		Soy kernels:	
Fruits, dried mixed:		Klix, Inc.	30700
California Packing Corporation	30651	Soybean flour. <i>See</i> Flour, soybean.	
Grapefruit, canned:		Spinach, canned:	
Engelman Gardens Association	30690	Larsen Co.	30683
Shaver, H. A., Inc.	30657	Red & White Corporation	30683
Grayling trout. <i>See</i> Fish and shellfish.		Tomato catsup:	
Haddock fillets. <i>See</i> Fish and shellfish, haddock (frozen).		Val Vita Food Products, Inc.	30732
Horseradish:		Fredonia Salsina Canning Co., Inc.	30681, 30763
Carpel Corporation	30667	paste:	
Golden Pickle Works, Inc.	30772	Gugino, A. A.	30763
New Jersey Empire Pickle Works, Inc.	30676	Tomatoes, canned:	
Taylor, Harry	30667	Berryville Supply Co.	30717
Jam:		Moseley, Markham & Rettinger	30730
Enjoy Packing Co., Ltd.	30731	Tullibees. <i>See</i> Fish and shellfish.	
Lemon juice. <i>See</i> Beverages and beverage bases.		Vanilla extract. <i>See</i> Flavors.	
Lobster tails. <i>See</i> Fish and shellfish, lobster (rock).		Walnut meats. <i>See</i> Nuts.	
Loganberry Flow. <i>See</i> Beverages and beverage bases, loganberry flavor.		Whitefish caviar. <i>See</i> Fish and shellfish, whitefish caviar.	
Milk. <i>See</i> Dairy products.		Whiting fillets. <i>See</i> Fish and shellfish, whiting (frozen).	

